

I. GENERAL LEGISLATION

1. Archeological Resources Protection Act of 1979

PUBLIC LAW 96-95—OCT. 31, 1979

93 STAT. 721

Public Law 96-95
96th Congress

An Act

To protect archaeological resources on public lands and Indian lands, and for other purposes.

Oct. 31, 1979
[H.R. 1825]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Archeological
Resources
Protection Act of
1979.

SHORT TITLE

SECTION 1. This Act may be cited as the "Archeological Resources Protection Act of 1979".

16 USC 470aa
note.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

16 USC 470aa.

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act.

DEFINITIONS

16 USC 470bb.

SEC. 3. As used in this Act—

(1) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological

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context. No item shall be treated as an archaeological resource under regulations under paragraph unless such item is at least 100 years of age.

(2) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(3) The term "public lands" means—

(A) lands which are owned and administered by the United States as part of—

- (i) the national park system,
- (ii) the national wildlife refuge system, or
- (iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution;

(4) The term "Indian lands" means lands of Indian tribes, or Indian individual, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688).

(6) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

43 USC 1601
note.

Permit
application.
16 USC 470cc.

EXCAVATION AND REMOVAL

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

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(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 against the permittee or upon the permittee's conviction under section 6.

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431-433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

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(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917, 16 U.S.C. 470f).

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

CUSTODY OF RESOURCES

Regulations.
16 USC 470dd.

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469-469c) or the Act of June 8, 1906 (16 U.S.C. 431-433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

16 USC 470ee.

PROHIBITED ACTS AND CRIMINAL PENALTIES

SEC. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a), or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both: *Provided, however,* That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$5,000, such person shall be fined not more than \$20,000 or impris-

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oned not more than two years, or both. In the case of a second or subsequent such notation upon conviction such person shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

CIVIL PENALTIES

SEC. 7. (a)(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

16 USC 470ff.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) if any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty,

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the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

Subpenas.

Witness fees.

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusals to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REWARDS; FORFEITURE

16 USC 470gg.

SEC. 8. (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 6 and 7 an amount equal to one half of such penalty or fine, but not to exceed \$500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

- (1) such person's conviction of such violation under section 6,
- (2) assessment of a civil penalty against such person under section 7 with respect to such violation, or
- (3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

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CONFIDENTIALITY

SEC. 9. (a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

16 USC 470hh.

(1) further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469-469c), and

5 USC 551.

(2) not create a risk of harm to such resources or to the site at which such resources are located.

(b) Notwithstanding the provisions of subsection (a) upon the written request of the Governor of any State, which request shall state—

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

REGULATIONS, INTERGOVERNMENTAL COORDINATION

SEC. 10. (a) The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996). Each uniform rule or regulation promulgated under this Act shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

Rules and regulations.
16 USC 470ii.

Submittal to congressional committees.

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

Rules and regulations.

COOPERATION WITH PRIVATE INDIVIDUALS

SEC. 11. The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

16 USC 470jj.

(1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act, and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and

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professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

SAVINGS PROVISIONS

16 USC 470kk.

SEC. 12. (a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 3(1).

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

REPORT

16 USC 470ll.

SEC. 13. As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 27, 1960 (74 Stat. 220; 16 U.S.C. 469-469a), the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act, relating to cooperation with private individuals.

Approved October 31, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-311 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-179 accompanying S. 490 (Comm. on Energy and
Natural Resources).

CONGRESSIONAL RECORD, Vol. 125 (1979):

July 9, considered and passed House.

July 30, considered and passed Senate, amended, in lieu of S. 490.

Oct. 12, House agreed to Senate amendments with an amendment.

Oct. 17, Senate concurred in House amendment.

2. Economic Recovery Tax Act of 1981

PUBLIC LAW 97-34—AUG. 13, 1981

95 STAT. 172

Public Law 97-34
97th Congress

An Act

To amend the Internal Revenue Code of 1954 to encourage economic growth through reduction of the tax rates for individual taxpayers, acceleration of capital cost recovery of investment in plant, equipment, and real property, and incentives for savings, and for other purposes.

Aug. 13, 1981
[H.R. 4242]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Economic
Recovery Tax
Act of 1981.
26 USC 1 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS OF 1954 CODE.

* * * * *

TITLE II—BUSINESS INCENTIVE PROVISIONS

95 STAT. 203

* * * * *

Subtitle B—Investment Tax Credit Provisions

95 STAT. 227

* * * * *

SEC. 212. INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES.

95 STAT. 235

(a) INCREASE IN AMOUNT OF CREDIT.—

26 USC 46.

(1) IN GENERAL.—Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out “and” at the end of clause (ii), by striking out the period at the end of clause (iii), by inserting an lieu thereof “, and”, and by adding at the end thereof the following new clause:

“(iv) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.”.

95 STAT. 236

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26 USC 46.

(2) REHABILITATION PERCENTAGE DEFINED.—Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

“(F) REHABILITATION PERCENTAGE.—For purposes of this paragraph—

(i) IN GENERAL.—

“In the case of qualified rehabilitation expenditures with respect to a:	The percentage is:
30-year building	15
40-year building	20
Certified historic structure.....	25.

“(ii) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentage and the energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

“(iii) DEFINITIONS.—

“(I) 30-YEAR BUILDING.—The term ‘30-year building’ means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

“(II) 40-YEAR BUILDING.—The term ‘40-year building’ means any building (other than a certified historic structure) which would meet the requirements of section 48(g)(1)(B) if ‘40’ were substituted for ‘30’ each place it appears in subparagraph (B) thereof.

“(III) CERTIFIED HISTORIC STRUCTURE.—The term ‘certified historic structure’ has the meaning given to such term by section 48(g)(3).”

26 USC 48.

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

“(8) REHABILITATION INVESTMENT CREDIT.—The term ‘rehabilitation investment credit’ means that portion of the credit allowable by section 38 which is attributable to the rehabilitation percentage.”

(b) QUALIFIED REHABILITATED BUILDINGS AND EXPENDITURES.—Sub-section (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

“(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

“(1) QUALIFIED REHABILITATED BUILDING DEFINED.—

“(A) IN GENERAL.—The term ‘qualified rehabilitated building’ means any building (and its structural components)—

“(i) which has been substantially rehabilitated,

“(ii) which was placed in service before the beginning of the rehabilitation, and

“(iii) 75 percent or more of the existing external walls of which are retained in place as external walls in the rehabilitation process.

“(B) 30 YEARS MUST HAVE ELAPSED SINCE CONSTRUCTION.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless there is a period of at least 30 years between

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the date the physical work on the rehabilitation began and the date the building was first placed in service.

“(C) SUBSTANTIALLY REHABILITATED DEFINED.—

“(i) IN GENERAL.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period ending on the last day of the taxable year exceed the greater of—

“(I) the adjusted basis of such property, or

“(II) \$5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250(e)), whichever is later.

26 USC 1250.

“(ii) SPECIAL RULE FOR PHASED REHABILITATION.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (I) shall be applied by substituting ‘60-month period’ for ‘24-month period’.

“(iii) LESSEES.—The Secretary shall prescribe by regulation rules for applying this provision to lessees.

“(D) RECONSTRUCTION.—Rehabilitation includes reconstruction.

“(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

“(A) IN GENERAL.—The term ‘qualified rehabilitation expenditure’ means any amount properly chargeable to capital account which is incurred after December 31, 1981—

“(i) for property (or additions or improvements to property) which have a recovery period (within the meaning of section 168) of 15 years, and

Ante, p. 203.

“(ii) in connection with the rehabilitation of a qualified rehabilitated building.

“(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term ‘qualified rehabilitation expenditure’ does not include—

“(i) ACCELERATED METHODS OF DEPRECIATION MAY NOT BE USED.—Any expenditures with respect to which an election has not been made under section 168(b)(3) (to use straight-line method of depreciation).

“(ii) COST OF ACQUISITION.—The cost of acquiring any building or interest therein.

“(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of an existing building.”

(iv) CERTIFIED HISTORIC STRUCTURE, ETC.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

“(I) such building was not a certified historic structure,

“(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

“(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secre-

tary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

“(v) EXPENDITURES OF LESSEE.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than 15 years.

“(C) CERTIFIED REHABILITATION.—For purposes of subparagraph (B) the term ‘certified rehabilitation’ means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

“(3) CERTIFIED HISTORIC STRUCTURE DEFINED.—

“(A) IN GENERAL.—The term ‘certified historic structure’ means any building (and its structural components) which—

“(i) is listed in the National Register, or

“(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

“(B) REGISTERED HISTORIC DISTRICT.—The term ‘registered historic district’ means—

“(I) any district listed in the National Register, and

“(ii) any district—

“(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

“(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

26 USC 38.

“(4) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property.

“(5) ADJUSTMENT TO BASIS.—

“(A) IN GENERAL.—For purposes of this subtitle, if a credit is allowed under this section for any qualified rehabilitation expenditure in connection with qualified rehabilitated building other than a certified historic structure, the increase in basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(B) CERTAIN DISPOSITIONS.—if during any taxable year there is a recapture amount determined with respect to any qualified rehabilitated building the basis of which was reduced under subparagraph (A), the basis of such building (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ‘recapture amount’ means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47(a)(5).”

Ante, p 233.

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95 STAT. 239

- (c) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

 - (1) by striking out “and” at the end of subparagraph (B),
 - (2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “,and”, and
 - (3) by adding at the end thereof the following new subparagraph:
 “(D) a certified historic structure to the extent of that portion of the basis which is attributable to qualified rehabilitation expenditures.”
- (d) REPEAL OF CERTAIN PROVISIONS RELATING TO HISTORIC STRUCTURES.—

 - (1) IN GENERAL.—Section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures and subsections (n) and (o) of section 167 (relating to depreciation) are hereby repealed. Repeals.
26 USC 191,
167.
 - (2) CONFORMING AMENDMENTS.—
 - (A) Paragraph (8) of section 48(a) (relating to amortized property) is amended by striking out “188, or 191” and inserting in lieu thereof “or 188”. 26 USC 48.
 - (B) Paragraph (2) of section 57(a) (relating to items of tax preference) is amended by striking out “or 191”. 26 USC 57.
 - (C) Section 280B (relating to demolition of certain historic structures) is amended—
 - (i) by striking out “section 191(d)(1)” in subsection (a), and inserting in lieu thereof “48(g)(3)(A)”, and
 - (ii) by striking out in “section 191(d)(2)” in subsection (b) and inserting in lieu thereof “section 48(g)(3)(B)”. 26 USC 280B.
 - (D) Subsection (f) of section 642 (relating to special rules for credits and deductions) is amended by striking out “188, and 191” and inserting in lieu thereof “and 188”. 26 USC 642.
 - (E) Subparagraph B of section 1082(a)(2) relating to basis for determining gain or loss) is amended by striking out “188, or 191” and inserting in lieu thereof “or 188”. 26 USC 1082.
 - (F) Paragraph (2) of section 1245 (a) (relating to gain from dispositions of certain depreciable property) and paragraph (4) of section 1250(b) (relating to gain from dispositions of certain depreciable realty) are each amended by inserting “(as in effect before its repeal by the Economic Recovery Tax Act of 1981)” after “191” each place it appears. 26 USC 1245.
26 USC 1250.
 - (G) Subsection (a) of section 1016 (relating to adjustments to basis) is amended—
 - (i) by striking out “and” at the end of paragraph (22),
 - (ii) by striking out the period at the end of paragraph (23) and inserting in lieu thereof “, and”, and
 - (iii) by adding at the end thereof the following new paragraph:
 “(24) to the extent provided in section 48(g)(5), in the case of expenditures with respect to which a credit has been allowed under section 38.”26 USC 1016.
- (e) EFFECTIVE DATES.—

 - (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures incurred after December 31, 1981, in taxable years ending after such date. Ante, p. 236.
 - (2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building if— 26 USC 46 note.

95 STAT. 240

PUBLIC LAW 97-34—AUG. 13, 1981

(A) the physical work on such rehabilitation began before January 1, 1982, and

(B) such building meets the requirement of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as in effect on the day before the date of enactment of this Act) but does not meet the requirements of such paragraph (1) (as amended by this Act).

* * * * *

95 STAT. 356

Approved August 13, 1981.

LEGISLATIVE HISTORY—H.R. 4242 (H.J. Res. 266):

HOUSE REPORTS: No. 97-201 (Comm. on Ways and Means) and No. 97-215 (Comm. of Conference).

SENATE REPORTS: No. 97-144 accompanying H.J. Res. 266 (Comm. on Finance and No. 97-176 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 127 (1981):

May 21, H.J. Res. 266 considered and passed House.

July 29, H.R. 4242 considered and passed House.

May 21, July 15-18, 20-24, 27-29, H.J. Res. 266 considered in Senate.

July 31, H.R. 4242 considered and passed Senate, amended, in lieu of H.J. Res. 266.

Aug. 1, 3, Senate considered and agreed to conference report.

Aug 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 17, No. 33 (1981):

August 13, Presidential statement.

3. Fee Authority

PUBLIC LAW 96-87—OCT. 12, 1979

93 STAT. 664

Public Law 96-87
96 th Congress

An Act

To authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail and for other purposes.

Oct. 12, 1979
[H.R. 5419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National parks and recreational lands.

* * * * *

TITLE IV

93 STAT. 666

* * * * *

SEC. 402. Notwithstanding any other provision of law, the Secretary shall not charge any entrance or admission fee in excess of the amounts which were in effect as of January 1, 1979, or charge said fees at any unit of the National Park System where such fees were not in effect as of such date, nor shall the Secretary charge after the date of enactment of this section, user fees for transportation services and facilities in Mount McKinley National Park, Alaska.

16 USC 469/6b.
93 STAT. 667

* * * * *

Approved October 12, 1979.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORDS Vol. 125 (1979):

Sept. 27, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Oct. 9, House concurred in Certain Senate amendments and in another with an amendment.

Oct. 11, Senate concurred in House amendment.

Public Law 96-344
96th Congress

An Act

Sept. 8, 1980
[S. 2680]

To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

94 STAT. 1135

* * * * *

78 Stat. 897;
16 USC
4601-4.
"Single visit."
16 USC 4601-6a.

SEC. 9. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 4601); is amended--

(1) in subsection 4(a) by deleting the second sentence paragraph (2) and substituting the following: "A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be deemed for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.";

(2) by adding at the end of section 4(a) the following new paragraph:

Lifetime
admission
permit.

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person domiciled in, the United States, if such citizen or person applies for such permit, and is blind or permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be blind or permanently disabled for purposes of receiving benefits under Federal law as a result of said blindness or permanent disability as determined by the Secretaries. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection"; and

16 USC 4601-6a.
94 STAT. 1136

(3) by amending the last sentence of section 4(b) to read as follows: "Any Golden Age Passport permittee, or permittee under paragraph (5) of subsection of this section, shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee."

* * * * *

94 STAT. 1138

Approved September 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-754 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):

May 22, considered and passed Senate.

July 31, considered and passed House, amended.

Aug. 18, Senate concurred in House amendment.

4. General Authorities Act (Amendments)

PUBLIC LAW 96-344—SEPT. 8, 1980

94 STAT. 1133

Public Law 96-344
96th Congress

An Act

To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).

Sept. 8, 1980
[S. 2680]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic Sites,
Buildings
and Antiquities
Act, administration
improvement.

* * * * *

SEC. 8. Section 8 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), is amended as follows—

94 STAT. 1135
16 USC 1a-5.

(1) at the end of the second sentence, insert the following new sentence: "Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan."; and

(2) at the end of the second sentence, insert the following sentence: "Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier."

* * * * *

Approved September 8, 1980.

94 STAT. 1138

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-754 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):

- May 22, considered and passed Senate.
- July 31, considered and passed House, amended.
- Aug. 18, Senate concurred in House amendment.

Public Law 96-199
96th Congress

An Act

To establish the Channel Islands National Park, and for other purposes.

Mar. 5, 1980
[H.R. 3757]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

94 STAT. 68

* * * * *

Report and annual listing.
16 USC 1a-5.

SEC. 104. The Act of August 18, 1970 (84 Stat. 825), as amended, is further amended as follows:

(a) In section 8 near the end thereof, delete the sentence "Each report and annual listing shall be printed as a House document", and insert in lieu the following: "Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the

94 STAT. 69
National Park System Plan, submittal to Congressional committees.

Committee on Energy and Natural Resources of the United States Senate indicating such to be the case."; and

(b) Insert "(a)" after "Sec. 8." and add a new subsection (b) as follows:

"(b) Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive, 'National Park System Plan', which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually."

94 STAT. 77

* * * * *

Approved March 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-119 (Comm. on Interior and Insular Affairs). No. 96-182, Pt. I accompanying H. R. 2975 (Comm. on Interior and Insular Affairs) and No. 96-182, Pt. II accompanying H. R. 2975 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-484 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 7, considered and passed House.
Vol. 126 (1980): Feb. 18, considered and passed Senate, amended.
Feb. 20, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 10 (1980): Mar. 5, Presidential statement.

5. Geothermal Steam Act Amendments

PUBLIC LAW 98-473—OCT. 12, 1984

98 STAT. 1837

Public Law 98-473
98th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1985, and for other purposes.

Oct. 12, 1984
[H.J. Res. 648]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

TITLE III—GENERAL PROVISIONS

98 STAT. 1870

* * * * *

SEC. 319. The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1986, if the Secretary of the Interior finds that—

98 STAT. 1874

Geothermal leasing.

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1986.

Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, as amended) in the Island Park Known as Geothermal Resource Area adjacent to Yellowstone National Park.

Yellowstone National Park.

* * * * *

Approved October 12, 1984.

98 STAT. 2199

LEGISLATIVE HISTORY— H.J. Res. 648 (S.J. Res. 356):
HOUSE REPORTS: No. 98-1030 (Comm. on Appropriations) and No. 98-1159 (Comm. of Conference).
SENATE REPORT No. 98-634 accompanying S.J. Res. 356 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 25, considered and passed House.
Sept. 27-29, Oct. 1-4, considered and passed Senate, amended.
Oct. 10, House agreed to conference report; receded from its disagreement and concurred in a certain Senate amendment.
Oct. 11, Senate agreed to conference report.

6. Historic American Buildings Survey Recognition

98 STAT. 155

PUBLIC LAW 98-268—APR. 17, 1984

Public Law 98-268
98th Congress

Joint Resolution

Apr. 17, 1984
[S.J. Res. 173]

Commending the Historic American Buildings Survey, a program of the National Park Service, Department of the Interior, the Library of Congress, and the American Institute of Architects.

Whereas the Historic American Buildings Survey has been documenting the architectural heritage of the United States with measured drawings, photographs, and historical data since 1933; Whereas these records, stored in the Library of Congress for public use, along with the records created by a sister program, the Historic American Engineering Record, have added immeasurably to our knowledge and appreciation of the historic American built environment;

Whereas the Survey has proven to be an important training ground for thousands of architects, historians, and scholars who have worked to preserve our historic American architecture; and

Whereas the fiftieth anniversary of this program marks an appropriate time to commend the National Park Service, the Library of Congress, and the American Institute of Architects on the Survey's past accomplishments as well as a time to look forward to the continuance of this important mission of recording the best examples of historic American architecture and engineering: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Historic American Buildings Survey be commended for its substantial contributions to our understanding of the history and heritage of this Nation.

Approved April 17, 1984.

LEGISLATIVE HISTORY—S.J. Res. 173:

HOUSE REPORT No. 98-662 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-811 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983) Nov. 18, considered and passed Senate.

Vol. 130 (1984) Apr. 9, considered and passed House.

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 2987

Public Law 96-515
96th Congress

An Act

To amend the National Historic Preservation Act of 1966, and for other purposes.

Dec. 12, 1980
[H.R. 5496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Historic Preservation Act Amendments of 1980".

National
Historic
Preservation Act
Amendments of
1980.
16 USC 470 note.

TITLE I—FINDINGS AND POLICY OF NATIONAL HISTORIC
PRESERVATION ACT

SEC. 101. (a) The first section of the Act of October 16, 1966 (16 U.S.C. 470-470t), hereinafter in this Act referred to as the "National Historic Preservation Act", is amended to read as follows:

"SEC. 1. (a) This Act may be cited as the 'National Historic Preservation Act'.

Short title.
16 USC 470.

"(b) The Congress finds and declares that—

"(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

"(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

"(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

"(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

"(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and non-governmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

"(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

"(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate to historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic

16 USC 470-1.

Preservation in the United States to expand and accelerate their historic preservation programs and activities.

“SEC. 2. It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

“(1) use measures, including financed and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

“(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

“(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

“(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

“(5) encourage the public and private preservation and utilization of a usable elements of the Nation’s historic built environment; and

“(6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.”.

TITLE II—HISTORIC PRESERVATION PROGRAM

National Register of Historic Places, expansion and maintenance. 16 USC 470a.

SEC. 201. (a) Section 101 of the National Historic Preservation Act is amended to read as follows:

“SEC. 101. (a)(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

National Historic Landmarks.

“(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as ‘National Historic Landmarks’ and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of the enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as ‘National Historic Landmarks’ or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat. 666); except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on interior and Insular Affairs of the United States House of Representatives.

Publication in Federal Register. Submittal to congressional committees. Ante, p. 2987.

16 USC 450m, 450n.

Criteria and regulations.

“(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 2989

properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

“(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

“(B) designating properties as National Historic Landmarks and removing such designation;

“(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

“(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

“(E) making determinations of eligibility of properties for inclusion on the National Register; and

“(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

“(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Subject to paragraph (6) any property nominated under this paragraph or under section 110(a)(2) shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

Properties,
nomination.

Post, p. 2996.

“(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a state where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

Determinations.

(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

Appeals.

“(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National

Regulations.
Owner
concurrence or
objections.

94 STAT. 2990

PUBLIC LAW 96-515—DEC. 12, 1980

- Review. Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.
- Regulations. “(7) The Secretary shall promulgate, or revise, regulations-
- Post, p. 2996.* “(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;
- “ (B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and
- “ (C) certifying local governments, in accordance with subsection (c)(1) and for the allocation of funds pursuant to section 103(c) of this Act.
- Post, p. 2994. State Historic Preservation Programs, Regulations.* “(b)(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program-
- “ (A) provides for the designation and appointment by the Governor of a ‘State Historic Preservation Officer’ to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;
- “ (B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and
- “ (C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.
- Evaluation. “(2) Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d)(1), unless there are adequate assurances that the program will comp with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.
- Audits.

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 2991

“(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

State House
Preservation
Officer,
responsibilities.

“(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

“(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

“(C) prepare and implement a comprehensive statewide historic preservation plan;

“(D) administer the State program of Federal assistance for historic preservation within the State;

“(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

“(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

“(G) provide public information, education, and training and technical assistance relating to the Federal and State Historic Preservation Programs; and

“(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

“(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

“(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

“(A) the date on which the Secretary approves a program submitted by the State under this subsection, or

“(B) three years after the date of the enactment of the National Historic Preservation Act Amendments of 1980.

Ante, p. 2987.
Certification.

“(c)(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

Post, p. 2994.
Requirements.

“(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

“(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

“(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

“(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

“(E) satisfactorily performs the responsibilities delegated to it under this Act.

Grants-in-aid.	Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.
Notification.	“(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to section 101(a). The State may expedite such process with the concurrence of the certified local government.
Report.	“(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.
<i>Ante</i> , p. 2988.	“(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.
Unrecommended nominations.	“(d)(1) The Secretary shall administer a program of matching grants-in-aid to the States for historic preservation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.
Appeals. <i>Ante</i> , p. 2988.	“(2) The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), for the purposes of carrying out the responsibilities of the National Trust.
<i>Post</i> , p. 2994.	“(3)(A) in addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—
Grants-in-aid.	“(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,
16 USC 468-468e.	
Direct grants.	
16 USC 470h.	

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“(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

“(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

“(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

“(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

Grants or loans.

“(C) Grants may be made under subparagraph (A) (i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104.

Post, p. 2994.

“(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

“(f) in consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

Post, p. 2996.

“(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

Ante, p. 2987.

“(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.”.

Historic property preservation, information availability.

SEC. 202. (a) Section 102(a)(3) of the National Historic Preservation Act is amended to read as follows:

16 USC 470b.

“(3) for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 101(d) (1) and (2) in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year.”.

Ante, p. 2988.

(b) Section 102(a) of such Act is amended by adding the following at the end thereof: “Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the internal Revenue Code of 1954.”.

26 USC 1.

(c) Subsection (c) of section 102 of such Act is repealed.

Repeal.
Apportionment.
16 USC 470c.

SEC. 203. (a) Subsection (b) of section 103 of the National Historic Preservation Act is amended by inserting after “projects” the words “and programs” and by striking out the second sentence thereof and substituting the following: “The Secretary shall notify each State of its apportionment under this subsection within thirty days following

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- the date of enactment of legislation appropriating funds under this Act.”.
- 16 USC 470c. (b) Section 103 of such Act is amended by adding at the end thereof the following:
- “(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).
- Funds, distribution guidelines. “(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.”.
- Loan insurance. 16 USC 470d. SEC. 204. Section 104 of the National Historic Preservation Act is amended to read as follows:
- “SEC. 104 (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.
- “(b) A loan may be insured under this section only if—
- “(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;
- “(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;
- “(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;
- “(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;
- “(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;
- “(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and
- “(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.
- Interest rates. The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.
- 16 USC 470h. “(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section, as in effect on the date of the enactment of this Act but which has not been appropriated for any purpose.

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“(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

Insurance contract.

“(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

“(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

Federal financial interests, protection.

“(1) in connection with any foreclosure proceeding obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

“(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

“(g)(1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property’s continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

Property conveyance.

“(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

16 USC 470h.

“(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this Act.

Fees.

“(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

“(j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e).

Appropriation authorization.

“(k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.”.

SEC. 205 Section 108 of the National Historic Preservation Act is amended by inserting after the term “1981” the phrase “and \$150,000,000 for each of fiscal years 1982 through 1987”.

16 USC 470h.

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Federal agencies, responsibilities. 16 USC 470h-2.	SEC. 206. Title I of the National Historic Preservation is amended by adding the following new section at the end thereof:
<i>Ante</i> , p. 2988.	“SEC. 110. (a)(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section.
Agency-owned properties.	“(2) With the advice of the Secretary and in cooperation with the State historic preservation officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency’s ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.
<i>Ante</i> , p. 2988.	“(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.
Records, storage.	“(c) The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency’s ‘preservation officer’ who shall be responsible for coordinating that agency’s activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g).
Preservation officer. <i>Post</i> , p. 3000.	“(d) Consistent with the agency’s missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act.
<i>Ante</i> , p. 2988.	“(e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.
Plans, review and approval.	“(f) Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.
Preservation costs.	“(g) Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The

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eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

“(h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

Preservation awards program.

“(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

42 USC 4321 note.

“(j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.”

Regulations.

SEC. 207. Title I of the National Historic Preservation Act is amended by adding the following at the end thereof:

“SEC. 111. (a) Notwithstanding any other provision of law, any Federal agency may, after consultation with the Advisory Council on Historic Preservation, lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

Leases.
16 USC 470h-3.

“(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repaid and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

Proceeds.

“(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.”

Surplus funds.

Contracts.

SEC. 208. Notwithstanding section 7(a) of the Act of June 27, 1960 (16 U.S.C. 469c), or any other provision of law to the contrary—

16 USC 469c-2.

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and

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permittes a condition to the issuance of such license or permit; and

Waiver. (3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 7(a) of such Act.

16 USC 469c.

TITLE III—AMENDMENTS TO TITLE II OF NATIONAL HISTORIC PRESERVATION ACT

16 USC 470i. SEC. 301. (a) Section 201(a) of the National Historic Preservation Act is amended by striking out “twenty-nine” and all that follows and substituting: “the following members:

“(1) a Chairman appointed by the President selected from the general public;

“(2) the Secretary of the Interior;

“(3) the Architect of the Capitol;

“(4) the Secretary of Agriculture and the heads of four other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;

“(5) one Governor appointed by the President;

“(6) one mayor appointed by the President;

“(7) the President of the National Conference of State Historic preservation Officers;

“(8) the Chairman of the National Trust for Historic Preservation;

“(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and

“(10) three at-large members from the general public, appointed by the President.”.

(b) Section 201(b) of such Act is amended by deleting (1) through (17) and substituting (2) through (8) (other than (5) and (6))” and by inserting the following before the period “, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated”.

Term of office. (c) Section 201(c) of such Act is amended to read as follows:

“(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor’s term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member’s successor has been appointed.”.

Vacancies. (d) Section 201(d) of such Act is amended to read as follows:

“(d) A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on

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Historic Preservation appointed by the President under this Act as in effect on the day before the enactment of the National Historic Preservation Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after the enactment of the National Historic Preservation Act Amendments of 1980.”.

Ante, p. 2987.

(e) Section 201(e) of such Act is amended to read as follows:

16 USC 470i.

“(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.”.

(f) Section 201(f) of such Act is amended by deleting the word “Fifteen” and substituting in lieu thereof the word “Nine”.

(g)(1) Section 202(a) of such Act is amended by striking out “and” after the semicolon in paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

16 USC 470j.

“(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and

“(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council’s authorized activities.”.

(2) Section 202(b) of such Act is amended by inserting the following before the period at the end thereof: “and shall provide the Council’s assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act”.

(h) Section 204 of such Act is amended by striking out the first sentence and so much of the second sentence as precedes the words “shall receive” and substituting “The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council”.

16 USC 470l.

Ante, p. 2998.

(i) The third sentence of section 205(b) of such Act is amended by inserting after the words “whenever appropriate” the phrase “, including enforcement of agreements with Federal agencies to which the Council is a party”.

16 USC 470m/

(j) Section 205(g) of such Act is amended by (1) inserting after the word “duties” in the second sentence “and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act”; and (2) striking out “(1) through (16) and substituting “(2) through (4)”.

(k) Section 210 of such Act is amended by striking out the first sentence thereof.

16 USC 470r.

(l) Section 211 of such Act is amended by adding the following at the end thereof: “The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments.”.

16 USC 470s.

16 USC 470f.

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SEC. 302. (a) Title II of the National Historic Preservation Act is amended by adding the following new sections at the end thereof:

Report.
16 USC 470u. "SEC. 213. To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

Regulations or
guidelines.
16 USC 470v. "SEC. 214. The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties."

16 USC 470t. (b) Section 212 b) of such Act is amended by striking out "Senate Committee on Interior and Insular Affairs" and substituting "Senate Committee on Energy and Natural Resources".

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

16 USC 470a-1.
27 UST 37. SEC. 401. (a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

World Heritage
Committee
nominations. (b) The Secretary of the interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on interior and insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Notification of
congressional
committees. (c) No non-Federal property may be nominated by the Secretary of the interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

16 USC 470a-2. SEC. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

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TITLE V—GENERAL, ADMINISTRATIVE, AND
MISCELLANEOUS PROVISIONS

SEC. 501. The National Historic Preservation Act is amended by adding the following new title at the end thereof:

“TITLE III

“SEC. 301. As used in this Act, the term—

“(1) ‘Agency’ means agency as such term is deemed in section 551 of title 5, United States Code, except that in the case of any Federal program exempted under section 214, the agency administering such program shall not be treated as an agency with respect to such program.

Definitions.
16 USC 470w.

Ante, p. 3000.

“(2) ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

“(3) ‘Local government’ means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

“(4) ‘Indian tribe’ means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

43 USC 1601
note.

“(5) ‘Historic property’ or ‘historic resource’ means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

“(6) ‘National Register’ or ‘Register’ means the National Register of Historic Places established under section 101.

Ante, p. 2988.

“(7) ‘Undertaking’ means any action as described in section 106.

16 USC 470f.

“(8) ‘Preservation’ or ‘historic preservation’ includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction, or any combination of the foregoing activities.

“(9) ‘Cultural park’ means a definable urban area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

“(10) ‘Historic conservation district’ means an urban area of one or more neighborhoods and which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

“(11) ‘Secretary’ means the Secretary of the Interior except where otherwise specified.

“(12) ‘State historic preservation review board’ means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B)—

Ante, p. 2988.

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- Membership. “(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),
 “(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, and architecture, and
- Authority. “(C) which has the authority to—
 “(i) review National Register nominations and appeals from nominations;
 “(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;
 “(iii) provide general advice and guidance to the State Historic Preservation Officer, and
 “(iv) perform such other duties as may be appropriate.
- Ante*, p. 2988. “(13) ‘Historic preservation review commission’ means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B), and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—
 “(A) professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related disciplines, to the extent such professionals are available in the community concerned, and
 “(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.
- Expenditures. “SEC. 302. Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this Act, except to the extent appropriations legislation expressly provides otherwise.
 16 USC 470w-1.
- Gifts or donations. “SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.
 16 USC 470w-2. “(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.
- Information disclosure. “SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.
 16 USC 470w-3.
- 16 USC 470w-4. “SEC. 305. In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorney’s fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.
- National Museum for the Building Arts. “SEC. 306. (a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a
 16 USC 470w-5.

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94 STAT. 3003

nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

“(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

“(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

“(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

“(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

“(5) encourage contributions to the building arts.

“(b) The cooperative agreement referred to in subsection (a) shall include provisions which—

“(1) make the site available to the Committee referred to in subsection (a) without charge;

“(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

“(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

“(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than \$500,000 may be provided to the Committee in any one fiscal year.

Grants-in-aid.

“(d) The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

Renovation.

“(1) be commenced immediately,

“(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

“(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

“(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

Report
submittal.

“(f) For purposes of this section, the term ‘building arts’ includes, but shall not be limited to, all practical and scholarly aspects of

“Building arts.”

Publication in
Federal
Register.
Regulations,
transmittal to
congressional
committees.
16 USC 470w-6.

Final
regulations.
Notification of
congressional
committees.

Noneffective
regulations.

Report to
President and
Congress.
16 USC 470a
note.

prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

“SEC. 307. (a) At least thirty days prior to publishing in the Federal Register any proposed regulation required by this Act, the Secretary shall transmit a copy of the regulation to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in subsection (b) of this section, no final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

“(b) In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) if the Secretary notified in writing the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

“(c) Except as provided in subsection (b), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: ‘That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of , which regulation was transmitted to Congress on ,’ the blank spaces therein being appropriately filled.

“(d) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

“(e) For the purposes of this section—

“(1) continuity of session is broken only by an adjournment sine die; and

“(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

“(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.”.

SEC. 502 The Secretary, in cooperation with the American Folklife Center of the Library of Congress shall, within two years after the date of the enactment of this Act, submit a report to the President and the Congress on presenting and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and

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94 STAT. 3005

folkways. The report shall take into account the view of other public and private organizations, as appropriate. This report shall include recommendations for legislative and administrative actions by the Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

SEC. 503. The Advisory Council on Historic Preservation, in cooperation with the Secretary and the Secretary of the Treasury, shall submit a report to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation. Such report shall include recommendations respecting amendments to such laws which would further the purposes of this Act. Such report shall be submitted within one year after the date of enactment of this Act.

Report to
President and
Congress.
16 USC 470j
note.

SEC. 504. The Secretary shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program since the enactment of this Act and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.

Report to
President and
Congress.
16 USC 470h
note.

SEC. 505. The Pennsylvania Avenue Development Corporation shall review the development plan for those parts of the development area which are not under development or committed for development as of the date of the enactment of this Act, to identify means by which the historic values of such parts of the development area may be preserved and enhanced to the maximum extent feasible. The foregoing review shall not be limited by the applicable provisions of the development plan in effect at the time of the review; nor shall the review require any actions by the Corporation during the course of the review or during its consideration by the Congress. Within one year of the date of this Act the Corporation shall submit to the appropriate committees of Congress a report containing the findings of the review required under this section, together with the Corporation's recommendations for any legislative measures or funding necessary to carry out the purposes of this section. The report shall also include a description of those activities which the Corporation proposes to undertake to carry out the purposes of this section and the financial implications of carrying out those activities.

Development
plan, review.
16 USC 874 note.

Report to
congressional
committees.

SEC. 506. The Secretary shall undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts that provide for the preservation, interpretation, development, and use by public and private entities of the prehistoric, historic, architectural, cultural, and recreational resources found in definable urban areas throughout the Nation. The study shall propose alternatives concerning the management and funding of such system by public and private entities and by various levels of government. The Secretary shall submit a report of his study and recommendations to the President and the Congress within two years after the enactment of this Act.

Study.
16 USC 470a
note.

Report to
President and
Congress.
16 USC 470a
note.

SEC. 507. The Secretary, in cooperation with the Secretary of the Treasury, the Administrator of the United States Fire Administration, and the Administrator of the Federal Insurance Administration, shall submit a report to the President and the Congress on fire in historic properties. Such report shall include a review of Federal laws to determine any relationship between these laws and arson or fire by

“suspicious origin”, and to make recommendations respecting amendments to such laws should a correlation be found to exist. Such report shall include the feasibility and necessity of establishing or developing protective measures at the Federal, State, or local level for the prevention, detection, and control of arson or fire by “suspicious origin” in historic properties. Such report shall also include recommendations regarding the Federal role in assisting the States and local governments with protecting historic properties from damage by fire. Such report shall be submitted within eighteen months after the date of enactment of this Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1457 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-943 accompanying S. 3116 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Nov. 17, considered and passed House.

Nov. 19, considered and passed Senate, in lieu of S. 3116.

7. Land and Water Conservation Fund of 1965 (Amendments)

PUBLIC LAW 96-203—MAR. 10, 1980

94 STAT. 81

Public Law 96-203
96th Congress

An Act

To authorize the conveyance of lands in the city of Hot Springs, Arkansas.

Mar. 10, 1980
[S. 1805]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

SEC. 2. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601-4 et seq.), is further amended as follows: 16 USC 4601-9.

(1) in subsection 7(a), within the paragraph numbered (3), after the phrase "Ninety-fifth Congress", insert the phrase "or, in the case of national recreation areas, prior to the convening of the Ninety-sixth Congress"; and

(2) in subsection 7(c), change "expire ten years from the date of enactment of the authorizing legislation establishing such boundaries;" to "apply only to those boundaries established subsequent to January 1, 1965;".

* * * * *

Approved March 10, 1980.

94 STAT. 82

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96 783 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-473 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 126 (1979): Dec. 18, considered and passed Senate.

Vol. 126 (1980): Feb. 26, considered and passed House, amended.

Feb. 26, Senate concurred in House amendments.

8. Mineral Leasing Act Amendments

95 STAT. 1070

PUBLIC LAW 97-78—NOV. 16, 1981

Public Law 97-78

97th Congress

An Act

Nov. 16, 1981
 [H.R. 3975]

To facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits.

Oil production.
 Mineral land
 leasing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) section 1 (30 U.S.C. 181), sections 21 (a) and (c) (30 U.S.C. 241 (a) and (c)), and section 34 (30 U.S.C. 182) of the Mineral Lands Leasing Act of 1920, as amended, are amended by deleting “native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)” and by inserting in lieu thereof “gilsonite (including all vein-type solid hydrocarbons),” except that in the first sentence of section 21(a) the word “and” should be inserted before “gilsonite” and the comma after the parenthesis should be eliminated in section 21.

(2) Section 27(k) of such Act (30 U.S.C. 184(k)) is amended by deleting “native asphalt, solid and semisolid bitumen, bituminous rock,” and by inserting in lieu thereof “gilsonite (including all vein-type solid hydrocarbons),”.

(3) Section 39 of such Act (30 U.S.C. 209) is amended by inserting “gilsonite (including all vein-type solid hydrocarbons),” after “oil shale”.

Definitions.

(4) Section 1 of such Act (30 U.S.C. 181) is further amended by adding after the first paragraph the following new paragraphs:

“The term ‘oil’ shall embrace all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).

“The term ‘combined hydrocarbon lease’ shall refer to a lease issued in a special tar sand area pursuant to section 17 after the date of enactment of the Combined Hydrocarbon Leasing Act of 1981.

“The term ‘special tar sand area’ means (1) an area designated by the Secretary of the Interior’s orders of November 20, 1980 (45 FR 76800–76801) and January 21, 1981 (46 FR 6077-6078) as containing substantial deposits of tar sand.”.

(5) Section 27(d)(1) of such Act (30 U.S.C. 184(d)(1)) is amended by inserting before the period at the end of the first sentence the following: “*Provided, however,* That acreage held in special tar sand areas shall not be chargeable against such State limitations.”.

(6)(a) Section 17(b) of such Act (30 U.S.C. 226(b)) is amended by inserting “(1)” after “(b)” and adding a new subsection to read as follows:

“(2) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than five thousand one hundred and twenty acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary. Royalty shall be 12 1/2 per centum in amount or value of production removed or sold from the lease,

Royalties.

PUBLIC LAW 97-78—NOV. 16, 1981

95 STAT. 1071

subject to section 17(k)(1)(c). The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.”.

Infra.

(b) Section 17(c) of such Act (30 U.S.C. 226(c)) is amended by deleting “within any known geological structure of a producing oil or gas field,” and inserting in lieu thereof “subject to leasing under subsection (b).”.

(c) Section 17(e) of such Act (30 U.S.C. 226(e)) is amended by inserting before the period at the end of the first sentence the following: “: *Provided however*, That competitive leases issued in special tar sand areas shall also be for a primary term of ten years.”.

(7) Section 39 of such Act (30 U.S.C. 209) is amended by adding after the period following the first sentence: “*Provided, however*, That in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary shall review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas. For purposes of this section, the term ‘tar sand’ means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.”.

“Tar sand.”

(8) Section 17 of such Act (30 U.S.C. 226) is amended by adding at the end thereof the following new subsection:

“(k)(1)(A) The owner of (1) an oil and gas lease issued prior to the date of enactment of the Combined Hydrocarbon Leasing Act of 1981 or (2) a valid claim to any hydrocarbon resources leasable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from the date of enactment of that Act containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

Application filing.

“(B) The Secretary shall issue final regulations to implement this section within six months of the effective date of this Act. If any oil and gas lease eligible for conversion under this section would otherwise expire after the date of this Act and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

Regulations.

“(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, 12 1/2 per

Royalties.

centum in amount or value of production removed or sold from the lease.

“(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to the enactment of such Act.”.

(9)(a) Section 2 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351) is amended by adding at the end thereof: “The term ‘oil’ shall embrace all nongaseous hydrocarbon substances other than those leasable as coal oil shale, or gilsonite (including all vein-type solid hydrocarbons)”.

(b) Section 3 of such Act (30 U.S.C. 352) is amended by inserting “gilsonite (including all vein-type solid hydrocarbons),” after “oil shale”.

30 USC 181
note.
26 USC 1 note.

(10) Nothing in this Act shall affect the taxable status of production from tar sand under the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96-223), reduce the depletion allowance for production from tar sand, or otherwise affect the existing tax status applicable to such production.

Prohibition.
30 USC 181
note.

(11) No provision of this Act shall apply to national parks, national monuments, or other lands where mineral leasing is prohibited by law. The Secretary of the Interior shall apply the provisions of this Act to the Glen Canyon National Recreation Area, and to any other units of the national park system where mineral leasing is permitted, in accordance with any applicable minerals management plan if the Secretary finds that there will be no resulting significant adverse impacts on the administration of such area, or on other contiguous units of the national park system.

Approved November 16, 1981.

LEGISLATIVE HISTORY—H.R. 3975:

HOUSE REPORT No. 97-174 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 97-250 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 127 (1981):
July 14, considered and passed House.
Oct. 29, considered and passed Senate.

**9. National Historic Preservation Act
(Amendments)**

94 STAT. 67

PUBLIC LAW 96-199—MAR. 5, 1980

Public Law 96-199
96th Congress

An Act

To establish the Channel Islands National Park, and for other purposes.

Mar. 5, 1980

[H.R. 3757]

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

TITLE I

* * * * *

SEC. 114. Section 206 of the Act of October 15, 1966 (80 Stat. 915), is amended by deleting all of subsection 6(c) and inserting in lieu thereof the following:

94 STAT. 71

“(c) For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for the United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided*, That appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessments shall begin in fiscal year 1981, but shall include earlier costs.”.

16 USC 470n.

Appropriation
authorization.

* * * * *

Approved March 5, 1980.

94 STAT. 77

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-119 (Comm. on Interior and Insular Affairs). No. 96-182, Pt I accompanying H. R. 2975 (Comm. on Interior and Insular Affairs) and No. 96-182. Pt. II accompanying H. R. 2975 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-484 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 7, considered and passed House.

Vol. 126 (1980): Feb. 18, considered and passed Senate, amended.

Feb. 20, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 10 (1980): Mar. 5, Presidential statement.

94 STAT. 346

PUBLIC LAW 96-244—MAY 19, 1980

Public Law 96-244
96th Congress

An Act

<p>May 19, 1980 [H.R. 126]</p>	<p>Department of the Interior. Privately donated funds, acceptance and expenditure.</p>	<p>16 USC 470h-1.</p>	<p>16 USC 470a.</p>	<p>16 USC 470b.</p>	<p>16 USC 470h. Transfer of funds.</p>	<p>Appropriation authorization. 16 USC 470t.</p>	<p>To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.</p> <p><i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i> That the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (80 Stat. 915; as amended, 16 U.S.C. 470a), is further amended by adding a new section 109 as follows:</p> <p>"SEC. 109. (a) In furtherance of the purposes of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.</p> <p>"(b) In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act, but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 108 of this Act.</p> <p>"(c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for the purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act."</p> <p>SEC. 2. The Act referred to in the preceding section is further amended in subsection 212(a) by changing the period at the end thereof to a comma, and inserting the following: "\$2,500,000 in fiscal year 1981, \$2,500,000 in fiscal year 1982, and \$2,500,000 in fiscal year 1983.</p>
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Approved May 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-592 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-625 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Nov. 27, considered and passed House.

Vol. 126 (1980): Mar. 19, considered and passed Senate, amended.

May 1, House concurred in certain Senate amendments and in others with amendments.

May 6, Senate concurred in House amendments.

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 2987

Public Law 96-515
96th Congress

An Act

To amend the National Historic Preservation Act of 1966, and for other purposes.

Dec. 12, 1980
[H.R. 5496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “National Historic Preservation Act Amendments of 1980”.

National
Historic
Preservation Act
Amendments of
1980.
16 USC 470 note.

TITLE I—FINDINGS AND POLICY OF NATIONAL HISTORIC
PRESERVATION ACT

SEC. 101. (a) The first section of the Act of October 15, 1966 (16 U.S.C. 470-470t), hereinafter in this Act referred to as the “National Historic Preservation Act”, is amended to read as follows:

“SEC. 1. (a) This Act may be cited as the ‘National Historic Preservation Act’.

Short title.
16 USC 470.

“(b) The Congress finds and declares that—

“(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

“(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

“(3) historic properties significant to the Nation’s heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

“(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

“(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and non-governmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

“(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

“(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate to historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic

94 STAT. 2988

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Preservation in the United States to expand and accelerate their historic preservation programs and activities.

16 USC 470-1.

“SEC. 2. It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

“(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

“(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

“(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

“(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

“(5) encourage the public and private preservation and utilization of all usable elements of the Nation’s historic built environment; and

“(6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.”.

TITLE II—HISTORIC PRESERVATION PROGRAM

National Register of Historic Places, expansion and maintenance. 16 USC 470a.

SEC. 201. (a) Section 101 of the National Historic Preservation Act is amended to read as follows:

“SEC. 101. (a)(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

National Historic Landmarks.

“(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as ‘National Historic Landmarks’ and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of the enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as ‘National Historic Landmarks’ or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat. 666); except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

Publication in Federal Register. Submittal to congressional committees. *Ante*, p. 2987.

16 USC 450m, 450n.

Criteria and regulations.

“(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 2989

properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

“(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

“(B) designating properties as National Historic Landmarks and removing such designation;

“(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

“(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

“(E) making determinations of eligibility of properties for inclusion on the National Register; and

“(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

“(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110(a)(2) shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

Properties,
nomination.

Post, p. 2996.

“(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

Determinations.

“(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

Appeals.

“(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National

Regulations.
Owner
concurrence or
objections.

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- Review. Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.
- Regulations. “(7) The Secretary shall promulgate, or revise, regulations—
- Post, p. 2996.* “(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;
- “ (B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and
- “ (C) certifying local governments, in accordance with subsection (c)(1) and for the allocation of funds pursuant to section 103(c) of this Act.
- Post, p. 2994. State Historic Preservation Programs, regulations.* “(b)(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—
- “ (A) provides for the designation and appointment by the Governor of a ‘State Historic Preservation Officer’ to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;
- “ (B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and
- “ (C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.
- Evaluation. “(2) Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d)(1), unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.
- Audits.

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“(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

State House
Preservation
Officer,
responsibilities.

“(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

“(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

“(C) prepare and implement a comprehensive statewide historic preservation plan;

“(D) administer the State program of Federal assistance for historic preservation within the State;

“(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

“(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

“(G) provide public information, education, and training and technical assistance relating to the Federal and State Historic Preservation Programs; and

“(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

“(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

“(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

“(A) the date on which the Secretary approves a program submitted by the State under this subsection, or

“(B) three years after the date of the enactment of the National Historic Preservation Act Amendments of 1980.

Ante, p. 2987.
Certification.

“(c)(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

Post, p. 2994.
Requirements.

“(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

“(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

“(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

“(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

“(E) satisfactorily performs the responsibilities delegated to it under this Act.

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- Grants-in-aid. Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.
- Notification. “(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to section 101(a). The State may expedite such process with the concurrence of the certified local government.
- Report. “(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.
- Ante*, p. 2988. “(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.
- Unrecommended nominations. “(d)(1) The Secretary shall administer a program of matching grants-in-aid to the States for historic preservation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.
- Appeals. “(2) The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), for the purposes of carrying out the responsibilities of the National Trust.
- Ante*, p. 2988. “(3)(A) in addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—
- Post*, p. 2994. “(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,
- 16 USC 468-468e.
- Direct grants. “(3)(A) in addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—
- 16 USC 470h. “(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

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“(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

“(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

“(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

“(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

Grants or loans.

“(C) Grants may be made under subparagraph (A) (i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104.

Post, p. 2994.

“(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

“(f) in consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

Post, p. 2996.

“(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

Ante, p. 2987.

“(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.”.

Historic property preservation, information availability.

SEC. 202. (a) Section 102(a)(3) of the National Historic Preservation Act is amended to read as follows:

16 USC 470b.

“(3) for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 101(d) (1) and (2) in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year.”.

Ante, p. 2988.

(b) Section 102(a) of such Act is amended by adding the following at the end thereof: “Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954.”.

26 USC 1.

(c) Subsection (c) of section 102 of such Act is repealed.

Repeal.
Apportionment.
16 USC 470c.

SEC. 203. (a) Subsection (b) of section 103 of the National Historic Preservation Act is amended by inserting after “projects” the words “and programs” and by striking out the second sentence thereof and substituting the following: “The Secretary shall notify each State of its apportionment under this subsection within thirty days following

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- the date of enactment of legislation appropriating funds under this Act.”.
- 16 USC 470c. (b) Section 103 of such Act is amended by adding at the end thereof the following:
- “(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).
- Funds, distribution guidelines. “(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.”.
- Loan insurance. 16 USC 470d. SEC. 204. Section 104 of the National Historic Preservation Act is amended to read as follows:
- “SEC. 104. (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.
- “(b) A loan may be insured under this section only if—
- “(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;
- “(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;
- “(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;
- “(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;
- “(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;
- “(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and
- “(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.
- Interest rates. The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.
- 16 USC 470h. “(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section, as in effect on the date of the enactment of this Act but which has not been appropriated for any purpose.

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“(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

Insurance contract.

“(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

“(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

Federal financial interests, protection.

“(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

“(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

“(g)(1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property’s continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

Property conveyance.

“(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

16 USC 470h.

“(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this Act.

Fees.

“(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

“(j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e).

Appropriation authorization.

“(k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.”.

SEC. 205. Section 108 of the National Historic Preservation Act is amended by inserting after the term “1981” the phrase “and \$150,000,000 for each of fiscal years 1982 through 1987”.

16 USC 470h.

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Federal agencies, responsibilities. 16 USC 470h-2.	SEC. 206. Title I of the National Historic Preservation Act is amended by adding the following new section at the end thereof:
<i>Ante</i> , p. 2988.	“SEC. 110. (a)(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section.
Agency-owned properties.	“(2) With the advice of the Secretary and in cooperation with the State historic preservation officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency’s ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.
<i>Ante</i> , p. 2988.	“(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.
Records, storage.	“(c) The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency’s ‘preservation officer’ who shall be responsible for coordinating that agency’s activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g).
Preservation officer. <i>Post</i> , p. 3000.	“(d) Consistent with the agency’s missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act.
<i>Ante</i> , p. 2988.	“(e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.
Plans, review and approval.	“(f) Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.
Preservation costs.	“(g) Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The

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eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

“(h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

Preservation awards program.

“(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

42 USC 4321 note.

“(j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.”

Regulations.

SEC. 207. Title I of the National Historic Preservation Act is amended by adding the following at the end thereof:

“SEC. 111. (a) Notwithstanding any other provision of law, any Federal agency may, after consultation with the Advisory Council on Historic Preservation, lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

Leases.
16 USC 470h-3.

“(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

Proceeds.

“(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.”

Surplus funds.

Contracts.

SEC. 208. Notwithstanding section 7(a) of the Act of June 27, 1960 (16 U.S.C. 469c), or any other provision of law to the contrary—

16 USC 469c-2.

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and

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Waiver. permittees as a condition to the issuance of such license or permit; and
 (3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 7(a) of such Act.

16 USC 469c.

TITLE III—AMENDMENTS TO TITLE II OF NATIONAL HISTORIC PRESERVATION ACT

16 USC 470i. SEC. 301. (a) Section 201(a) of the National Historic Preservation Act is amended by striking out “twenty-nine” and all that follows and substituting: “the following members:
 “(1) a Chairman appointed by the President selected from the general public;
 “(2) the Secretary of the Interior;
 “(3) the Architect of the Capitol;
 “(4) the Secretary of Agriculture and the heads of four other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;
 “(5) one Governor appointed by the President;
 “(6) one mayor appointed by the President;
 “(7) the President of the National Conference of State Historic preservation Officers;
 “(8) the Chairman of the National Trust for Historic Preservation;
 “(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and
 “(10) three at-large members from the general public, appointed by the President.”.

(b) Section 201(b) of such Act is amended by deleting (1) through (17) and substituting (2) through (8) (other than (5) and (6))” and by inserting the following before the period “, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated”.

Term of office. (c) Section 201(c) of such Act is amended to read as follows:
 “(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor’s term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member’s successor has been appointed.”.

Vacancies. (d) Section 201(d) of such Act is amended to read as follows:
 “(d) A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on

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Historic Preservation appointed by the President under this Act as in effect on the day before the enactment of the National Historic Preservation Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after the enactment of the National Historic Preservation Act Amendments of 1980.”.

Ante, p. 2987.

(e) Section 201(e) of such Act is amended to read as follows:

16 USC 470i.

“(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.”.

(f) Section 201(f) of such Act is amended by deleting the word “Fifteen” and substituting in lieu thereof the word “Nine”.

(g)(1) Section 202(a) of such Act is amended by striking out “and” after the semicolon in paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

16 USC 470j.

“(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and

“(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council’s authorized activities.”.

(2) Section 202(b) of such Act is amended by inserting the following before the period at the end thereof: “and shall provide the Council’s assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act”.

(h) Section 204 of such Act is amended by striking out the first sentence and so much of the second sentence as precedes the words “shall receive” and substituting “The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council”.

16 USC 470l.

Ante, p. 2998.

(i) The third sentence of section 205(b) of such Act is amended by inserting after the words “whenever appropriate” the phrase “, including enforcement of agreements with Federal agencies to which the Council is a party”.

16 USC 470m.

(j) Section 205(g) of such Act is amended by (1) inserting after the word “duties” in the second sentence “and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act”; and (2) striking out “(1) through (16) and substituting “(2) through (4)”.

(k) Section 210 of such Act is amended by striking out the first sentence thereof.

16 USC 470r.

(l) Section 211 of such Act is amended by adding the following at the end thereof: “The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments.”.

16 USC 470s.

16 USC 470f.

94 STAT. 3000

PUBLIC LAW 96-515—DEC. 12, 1980

SEC. 302. (a) Title II of the National Historic Preservation Act is amended by adding the following new sections at the end thereof:

Report.
16 USC 470u. "SEC. 213. To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

Regulations or
guidelines.
16 USC 470v. "SEC. 214. The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties."

16 USC 470t. (b) Section 212 (b) of such Act is amended by striking out "Senate Committee on Interior and Insular Affairs" and substituting "Senate Committee on Energy and Natural Resources".

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

16 USC 470a-1.
27 UST 37. SEC. 401. (a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

World Heritage
Committee
Nominations. (b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Notification of
Congressional
Committees. (c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

16 USC 470a-2. SEC. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 3001

TITLE V—GENERAL, ADMINISTRATIVE, AND
MISCELLANEOUS PROVISIONS

SEC. 501. The National Historic Preservation Act is amended by adding the following new title at the end thereof:

“TITLE III

“SEC. 301. As used in this Act, the term—

“(1) ‘Agency’ means agency as such term is defined in section 551 of title 5, United States Code, except that in the case of any Federal program exempted under section 214, the agency administering such program shall not be treated as an agency with respect to such program.

Definitions.
16 USC 470w.

Ante, p. 3000.

“(2) ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

“(3) ‘Local government’ means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

“(4) ‘Indian tribe’ means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

43 USC 1601
note.

“(5) ‘Historic property’ or ‘historic resource’ means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

“(6) ‘National Register’ or ‘Register’ means the National Register of Historic Places established under section 101.

Ante, p. 2988.

“(7) ‘Undertaking’ means any action as described in section 106.

16 USC 470f.

“(8) ‘Preservation’ or ‘historic preservation’ includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction, or any combination of the foregoing activities.

“(9) ‘Cultural park’ means a definable urban area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

“(10) ‘Historic conservation district’ means an urban area of one or more neighborhoods and which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

“(11) ‘Secretary’ means the Secretary of the Interior except where otherwise specified.

“(12) ‘State historic preservation review board’ means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B)—

Ante, p. 2988.

94 STAT. 3002

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Membership.	<p>“(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),</p> <p>“(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, and architecture, and</p>
Authority.	<p>“(C) which has the authority to—</p> <p>“(i) review National Register nominations and appeals from nominations;</p> <p>“(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;</p> <p>“(iii) provide general advice and guidance to the State Historic Preservation Officer, and</p> <p>“(iv) perform such other duties as may be appropriate.</p>
<i>Ante</i> , p. 2988.	<p>“(13) ‘Historic preservation review commission’ means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B), and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—</p> <p>“(A) professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related disciplines, to the extent such professionals are available in the community concerned, and</p> <p>“(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.</p>
Expenditures. 16 USC 470w-1.	<p>“SEC. 302. Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this Act, except to the extent appropriations legislation expressly provides otherwise.</p>
Gifts or donations. 16 USC 470w-2.	<p>“SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.</p> <p>“(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.</p>
Information disclosure. 16 USC 470w-3.	<p>“SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.</p>
16 USC 470w-4.	<p>“SEC. 305. In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorney’s fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.</p>
National Museum for the Building Arts. 16 USC 470w-5.	<p>“SEC. 306. (a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a</p>

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94 STAT. 3003

nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

“(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

“(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

“(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

“(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

“(5) encourage contributions to the building arts.

“(b) The cooperative agreement referred to in subsection (a) shall include provisions which—

“(1) make the site available to the Committee referred to in subsection (a) without charge;

“(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

“(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

“(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than \$500,000 may be provided to the Committee in any one fiscal year.

Grants-in-aid.

“(d) The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

Renovation.

“(1) be commenced immediately,

“(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

“(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

“(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

Report
submittal.

“(f) For purposes of this section, the term ‘building arts’ includes, but shall not be limited to, all practical and scholarly aspects of

“Building arts.”

Publication in
Federal
Register.
Regulations,
transmittal to
congressional
committees.
16 USC 470w-6.

Final
regulations.
Notification of
congressional
committees.

Noneffective
regulations.

Report to
President and
Congress.
16 USC 470a
note.

prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

“SEC. 307. (a) At least thirty days prior to publishing in the Federal Register any proposed regulation required by this Act, the Secretary shall transmit a copy of the regulation to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in subsection (b) of this section, no final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

“(b) In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) if the Secretary notified in writing the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

“(c) Except as provided in subsection (b), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: ‘That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of _____, which regulation was transmitted to Congress on _____,’ the blank spaces therein being appropriately filled.

“(d) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

“(e) For the purposes of this section—

“(1) continuity of session is broken only by an adjournment sine die; and

“(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

“(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.”.

SEC. 502. The Secretary, in cooperation with the American Folklife Center of the Library of Congress shall, within two years after the date of the enactment of this Act, submit a report to the President and the Congress on presenting and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and

PUBLIC LAW 96-515—DEC. 12, 1980

94 STAT. 3005

folkways. The report shall take into account the view of other public and private organizations, as appropriate. This report shall include recommendations for legislative and administrative actions by the Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

SEC. 503. The Advisory Council on Historic Preservation, in cooperation with the Secretary and the Secretary of the Treasury, shall submit a report to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation. Such report shall include recommendations respecting amendments to such laws which would further the purposes of this Act. Such report shall be submitted within one year after the date of enactment of this Act.

Report to
President and
Congress.
16 USC 470j
note.

SEC. 504. The Secretary shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program since the enactment of this Act and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.

Report to
President and
Congress.
16 USC 470h
note.

SEC. 505. The Pennsylvania Avenue Development Corporation shall review the development plan for those parts of the development area which are not under development or committed for development as of the date of the enactment of this Act, to identify means by which the historic values of such parts of the development area may be preserved and enhanced to the maximum extent feasible. The foregoing review shall not be limited by the applicable provisions of the development plan in effect at the time of the review; nor shall the review require any actions by the Corporation during the course of the review or during its consideration by the Congress. Within one year of the date of this Act the Corporation shall submit to the appropriate committees of Congress a report containing the findings of the review required under this section, together with the Corporation's recommendations for any legislative measures or funding necessary to carry out the purposes of this section. The report shall also include a description of those activities which the Corporation proposes to undertake to carry out the purposes of this section and the financial implications of carrying out those activities.

Development
plan, review.
16 USC 874 note.

Report to
congressional
committees.

SEC. 506. The Secretary shall undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts that provide for the preservation, interpretation, development, and use by public and private entities of the prehistoric, historic, architectural, cultural, and recreational resources found in definable urban areas throughout the Nation. The study shall propose alternatives concerning the management and funding of such system by public and private entities and by various levels of government. The Secretary shall submit a report of his study and recommendations to the President and the Congress within two years after the enactment of this Act.

Study.
16 USC 470a
note.

Report to
President and
Congress.

SEC. 507. The Secretary, in cooperation with the Secretary of the Treasury, the Administrator of the United States Fire Administration, and the Administrator of the Federal Insurance Administration, shall submit a report to the President and the Congress on fire in historic properties. Such report shall include a review of Federal laws to determine any relationship between these laws and arson or fire by

Report to
President and
Congress.
16 USC 470a
note.

“suspicious origin”, and to make recommendations respecting amendments to such laws should a correlation be found to exist. Such report shall include the feasibility and necessity of establishing or developing protective measures at the Federal, State, or local level for the prevention, detection, and control of arson or fire by “suspicious origin” in historic properties. Such report shall also include recommendations regarding the Federal role in assisting the States and local governments with protecting historic properties from damage by fire. Such report shall be submitted within eighteen months after the date of enactment of this Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1457 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-943 accompanying S. 3116 (Comm. on Energy and
Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Nov. 19, considered and passed Senate, in lieu of S. 3116.

PUBLIC LAW 98-483—OCT. 17, 1984

98 STAT. 2258

Public Law 98-483
98th Congress

An Act

To amend the National Historic Preservation Act, and for other purposes.

Oct. 17, 1984

[H.R. 2889]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 212(a) of the National Historic Preservation Act (16 U.S.C. 470t(a)) is amended by striking out the second and third sentences and inserting in lieu thereof "To carry out the provisions of this title, there is authorized to be appropriated not more than \$2,500,000 for each of the final years 1985 through 1989".

Appropriation
authorization.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H. R. 2889:

HOUSE REPORT No. 98-761 (Comm. on Interior and Insular Affairs).

SENATE REPORT No 98-623 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 4, considered and passed House.

Oct. 3, considered and passed Senate, amended.

Oct. 4, House concurred in Senate amendment.

10. National Parks and Recreation Act of 1978 (Amendments)

93 STAT. 664

PUBLIC LAW 96-87—OCT. 12, 1979

Public Law 96-87
96th Congress

An Act

Oct. 12, 1979
[H.R. 5419]

To authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail and for other purposes.

National parks
and recreational
lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

93 STAT. 665
National Park
System.

TITLE IV

SEC. 401. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

* * * * *

93 STAT. 666
92 Stat. 3476.

(e) Section 302 is amended at the end thereof by changing "section 301" to "title III of this Act".

* * * * *

93 STAT. 667

Approved October 12, 1979.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORDS Vol. 125 (1979):

Sept. 27, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Oct. 9, House concurred in Certain Senate amendments and in another with an amendment.

Oct. 11, Senate concurred in House amendment.

11. National Park Visitor Facilities Fund Act

PUBLIC LAW 97-433—JAN. 8, 1983

96 STAT. 2277

Public Law 97-433
97th Congress

An Act

To establish the National Park system visitor Facilities Fund and for other purposes.

Jan. 8, 1983

[H.R. 7316]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Park System Facilities Fund Act".

National Park System Visitor Facilities Fund Act.

16 USC 19aa note.
16 USC 19aa.

SEC. 2. DEFINITIONS.—For purposes of this Act—

(1) "Foundation" means the National Park Foundation established under the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19e and following);

(2) "Fund" means the National Park System Visitor Facilities Fund established under section 3 of this Act;

(3) "Secretary" means the Secretary of the Interior and

(4) "visitor facility" means any structure, fixture, or improvement—

(A) which is located within a unit of the National Park System upon land owned by the United States;

(B) in which no concessioner has a possessory interest (within the meaning of section 6 of the National Park Service Concessions Policy Act (16 U.S.C. 20-20g)); and

16 USC 20e.

(C) which is used to provide food, lodging, or other services to visitors.

Such term also includes concessioners' employee dormitories which meet the requirements of subparagraphs (A) and (B).

16 USC 19bb.

SEC. 3. ESTABLISHMENT OF FUND.—There is hereby establish in the Treasury of the United States the National Park System Visitor Facilities Fund. There shall be credited to the Fund an amount equal to all National Park System concession fees, including franchise fees and building user fees, paid to or due and owing to the United States after October 1, 1982 for the privilege of providing visitor accommodations and services in units of the National Park System (other than revenues obtained under provisions of section 111 of the National Historic Preservation Act of 1966) (16 U.S.C. 470-470t).

16 USC 470h-3.

16 USC 19cc.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.—(a) Beginning in fiscal year 1984, amounts credited to the Fund pursuant to this Act are authorized to be appropriated to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act.

(b) In addition to the amount to be appropriated pursuant to subsection (a) of this section, there is authorized to be appropriated, not to exceed \$1,000,000 to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act. Such sums shall be available for expenditure by the Foundation only to the extent such sums are matched on a dollar-for-dollar basis by cash or in-kind contributions made to the Foundation for the purposes of this Act.

(c) Except as provided in section 8 of this Act, sums appropriated under this section shall remain available until expended

National Park
Foundation,
functions.
16 USC 19dd.

SEC. 5. ADMINISTRATION OF FUND PROJECTS.—(a) In a timely fashion the Director of the National Park Service, with the concurrence of the Secretary, shall submit to the Executive Committee of the National Park Foundation detailed recommendations for the reconstruction, rehabilitation, replacement, improvement, relocation, or removal of visitor facilities. The Director shall specify those projects which he deems to have the highest priority for funding under this Act. The Executive Committee shall consider such recommendations and, with the concurrence of the Director of the National Park Service, recommend projects to the Board of the Foundation for its approval.

Grants.

(b) The Secretary shall make grants to the Foundation from amounts available in the Fund for the purpose of carrying out projects approved under this section.

Historic property.

(c)(1) Any project approved and carried out under this section shall be consistent with the purposes for which the park system unit involved was established and with any approved general management plan applicable to that unit. Any plans for, and location and design of, any specific project shall be reviewed by and concurred in by the Director of the National Park Service.

(2) In recommending any project under this Act with respect to any property listed on, or eligible for listing on the National Register of Historic Properties, the National Park service shall take into account the recommendations of the Advisory Council on Historic Preservation and any project affecting any such property shall be carried out in a manner consistent with the requirements of the National Historic Preservation Act (16 U.S.C. 470-470t).

(d) The Foundation shall carry out projects under this Act, and expend grants made available under this Act, in accordance with applicable provisions of law and regulations. All grants for any projects to be carried out under this Act shall be in accordance with Circular A-110 published by the Office of Management and Budget applicable to Federal grants. The Foundation shall be responsible for managing the construction activities, including the selection of persons to perform architectural, engineering, construction, and related services.

(e) By undertaking to administer any project under this Act, the Foundation shall be deemed to have agreed that all right, title, and interest in any visitor facility with respect to which such project is carried out shall be vested in the United States. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation in connection with its activities under this Act.

Annual report to
Congress.

(f) The Foundation shall include in its annual report to the Congress a description of projects undertaken under this Act and the Foundation's accomplishments under this Act.

16 USC 19ee.

SEC. 6. AUTHORITY OF THE NATIONAL PARK FOUNDATION.—For the purposes of this Act, the Foundation, in addition to any other authorities it may have—

(1) shall have all necessary and proper powers for exercise of the authorities vested in it by this Act;

(2) may execute all instruments deemed necessary or appropriate in the exercise of any of its functions under this Act;

(3) may expend a portion of moneys received under this Act for such reasonable personnel and incidental expenses as are necessary to carry out its functions under this Act.

PUBLIC LAW 97-433—JAN. 8, 1983

96 STAT. 2279

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.— Nothing in this Act shall affect the authorities or responsibilities of the Secretary under other provisions of law, including the authorities and responsibilities vested in him under the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and under the National Park System Concessions Policy Act (79 Stat. 969; 16 U.S.C. 20-20g).

16 USC 19ff.

SEC. 8. EXPIRATION OF AUTHORITY.— The authorities contained in this Act shall expire on September 30, 1989. After that date, any moneys previously credited to the Fund under this Act which have not been appropriated, or if appropriated, which have not been obligated or expended, shall be transferred to miscellaneous receipts of the Treasury.

16 USC 19gg.

Approved January 8, 1983.

LEGISLATIVE HISTORY—H.R. 7316 (S. 2715):

HOUSE REPORT No. 97-953 (Comm. on Interior and Insular affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 10, considered and passed House.

Dec. 21, considered and passed Senate.

12. Rail Safety and Service Improvement Act of 1982

PUBLIC LAW 97-468—JAN. 14, 1983

96 STAT. 2543

Public Law 97-468
97th Congress

An Act

Making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

Jan. 14, 1983
[H.R. 3420]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That titles II through VII of this Act may be cited as the “Rail Safety and Service Improvement Act of 1982”.

Rail Safety and Service Improvement Act of 1982.
45 USC 421 note.

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673(b)) and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) are each amended by striking “once every 6 months.” and substituting “twice each calendar year.”.

SEC. 102. Section 8(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1675(a)) is amended by striking “sixtieth day” and substituting “90th day”.

SEC. 103. Section 206(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2005(a)) is amended by striking “60th day” and substituting “90th day”.

SEC. 104. Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674(a)) is amended by striking “(other than subsection (a)(3) thereof)” and substituting “(other than subsection (a)(2) thereof)”.

TITLE II—BANKRUPT RAILROADS

SHORT TITLE

SEC. 201. This title may be referred to as the “Bankrupt Railroad Service Preservation and Employee Protection Act of 1982”.

Bankrupt Railroad Service Preservation and Employee Protection Act of 1982.
45 USC 901 note.

Subtitle A—Service Preservation

PURPOSE

SEC. 211. It is the purpose of this subtitle to continue the effort by Congress to assure service over the lines of rail carriers subject to liquidation in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

45 USC 901 note.

FINDINGS

SEC. 212. The Congress finds that—

(1) it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and

45 USC 901 note.

where the financially responsible person seeks to provide rail service over the line;

(2) procedures set forth in the amendments made by this title represent an exercise of the powers of the Congress under the Constitution to regulate commerce among the several States which will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

(3) it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified.

AMENDMENTS TO THE MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 213. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

“(B) The Commission shall, within 15 days after the filing of an application under subparagraph (A) of this paragraph, determine whether the applicant—

“(i) is a financially responsible person, and

“(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

“(C)(i) if the Commission's determination under subparagraph (B) of this paragraph is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the 'parties') shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B) of this paragraph, either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D) of this paragraph except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

“(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

“(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C) of this paragraph, the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph. Notwithstanding any other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than that required as a constitutional minimum.

“(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

“(E) The Commission shall require that any person acquiring a line or lines under this paragraph use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

“(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

“(G) The Commission shall, within 45 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, prescribe such regulations and procedures as are necessary to carry out the provisions of this paragraph.

“(H) As used in this paragraph, the term—

“(i) ‘carrier subject to liquidation’ means a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code, and which has been ordered by the court to liquidate its properties;

“(ii) ‘the court’ means the court having bankruptcy jurisdiction over the carrier subject to liquidation, and

“(iii) ‘financially responsible person’ means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years.”.

Definitions.

Ante, p. 2543.

11 USC 1161.

INTERSTATE COMMERCE COMMISSION AUTHORITY

SEC. 214. (a) Section 122(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended—

(1) by striking “the Rock Island Railroad or the Milwaukee Railroad” and inserting in lieu thereof the following: “a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code”;

(2) by striking the last sentence of such section; and

(3) by adding at the end thereof the following: "The Commission shall have authority to authorize continued rail service under this section over the lines of any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier."

(b) Section 122(c) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(c)) is repealed.

Subtitle B—Employee Protection

EMPLOYEE PROTECTION AGREEMENT

SEC. 231. Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 106. (a) The Secretary and the representatives of the various classes and crafts of employees of the Rock Island Railroad shall, not later than 90 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, enter into an agreement providing protection for employees of the Rock Island Railroad who are adversely affected as a result of a reduction in service by such Railroad. Such agreement may provide for the use of funds described in subsection (c) of this section for the following purposes:

Ante, p. 2543.

"(1) Subsistence allowances to employees.

"(2) Moving expenses for employees who must make a change in residence.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Separation allowances for employees.

"(5) Health and welfare insurance premiums.

"(6) Such other purposes as may be agreed upon by the parties.

Schedule of benefits.

"(b) If the parties are unable to reach agreement within the time period specified in subsection (a) of this section, the Secretary shall, within 30 days after the expiration of such time period, prescribe a schedule of benefits for employee protection not inconsistent with the provisions of this Act.

Post, p. 2552.

"(c) Any agreement entered into under subsection (a) of this section, and any benefit schedule prescribed under subsection (b) of this section, shall not require the expenditure of funds in excess of amounts authorized to be appropriated under section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973, nor shall any individual employee receive benefits in excess of \$20,000 under such agreement or benefit schedule. No benefits or assistance may be provided under any agreement entered into or benefit schedule prescribed under this section after April 1, 1984.

"(d) The Board shall, in such manner as it shall prescribe by regulation, administer the distribution of funds under any agreement entered into or benefit schedule prescribed under this section, and shall determine the amount for which each employee is eligible under such agreement or benefit schedule. Such regulation shall include procedures to resolve by final and binding arbitration any dispute over an employee's eligibility or claim."

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ELECTION

SEC. 232. Section 108 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007) is amended—

(1) in subsections (a) and (d), by striking “or arrangement entered into” and inserting in lieu thereof “entered into or benefit schedule prescribed”; and

(2) in subsection (b), by striking “April 1, 1981” and inserting in lieu thereof “120 days after the effective date of any agreement entered into under section 106(a) of this title or of any benefit schedule prescribed under section 106(b) of this title, as the case may be”.

NEW CARRIER TRAINING ASSISTANCE

SEC. 233. Section 119(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1014(a)) is amended by striking “from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may” and inserting in lieu thereof “under an employee protection agreement entered into or a benefit schedule prescribed under section 106 of this title may, if so provided under such agreement or benefit schedule.”.

REPEALS

SEC. 234. (a) Section 110 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008) is repealed.

(b) The second sentence of section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is repealed.

DISPUTE RESOLUTION

SEC. 235. (a) Section 704(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(c)) is amended by striking “3-year” and inserting in lieu thereof “4-year”.

45 USC 797c.

(b) Section 704(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(g)) is amended by striking “this section or section 703 of this Act” wherever it appears and inserting in lieu thereof “this section, section 703 of this Act, section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), or section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004)”.

45 USC 797c.

RAILROAD HIRING

SEC. 236. (a) Section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) is amended by striking “April 1, 1981,” and inserting in lieu thereof “April 1, 1984.”.

(b) Section 105(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004(a)) is amended by striking “January 1, 1981,” and inserting in lieu thereof “January 1, 1984.”.

TITLE III—NORTHEAST CORRIDOR

AMENDMENTS

SEC. 301. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended as follows:

96 STAT. 2548

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45 USC 853.

(1) Section 703(1)(A)(ii) is amended by striking “and Albany, New York” and inserting in lieu thereof “Albany, New York, and Atlantic City, New Jersey”.

45 USC 854.

(2) Section 704(a)(1) is amended to read as follows:

“(1) \$2,313,000,000 to remain available until expended (A) in order to effectuate the goals of section 703(1)(A)(i) of this title, of which not less than \$27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this title; (B) of which, if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New Jersey that such State has approved a plan, developed in consultation with the National Railroad Passenger Corporation, for the operation of rail passenger service between the main line of the Northeast Corridor and Atlantic City, New Jersey, and if such Corporation determines that such plan is feasible, \$30,000,000 shall be made available by the Secretary to the National Railroad Passenger Corporation for rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between such points, consistent with the plan for operation approved by the State, in order to ensure that such track will be of sufficient quality to permit safe rail passenger service at a minimum of 79 miles per hour not later than September 30, 1985, and to promote rail passenger use of such track; and (C) of which such sums as may be required shall be available for the following projects with respect to the main line of the Northeast Corridor development of the Union Station in Washington, District of Columbia; installation of 189 track miles of concrete ties with continuously welded rail between Washington, District of Columbia, and New York, New York; renewal of 133 track miles of existing continuously welded rail on concrete tie track between Washington, District of Columbia, and New York, New York; installation of reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 tracks; restoration of ditch drainage in concrete tie locations between Washington, District of Columbia, and New York, New York; undercutting of 83 track miles between Washington, District of Columbia, and New York, New York; rehabilitation of bridges between Washington, District of Columbia, and New York, New York (including Hi line); development of a maintenance-of-way equipment repair facility between Washington, District of Columbia, and New York, New York; roadbed stabilization at various locations between Washington, District of Columbia, and New York, New York; automation of Bush River Drawbridge at milepost 72.14; improvements to the New York Service Facility to develop rolling stock repair capability; construction of maintenance-of-way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut; installation of rail car washer facility at Philadelphia, Pennsylvania; restoration of storage tracks and buildings at the Washington Service Facility; installation of centralized traffic control

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from Landlith, Delaware, to Philadelphia, Pennsylvania; track improvements including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution; rehabilitation of interlockings between Washington, District of Columbia, and New York, New York; painting of Connecticut River, Groton, and Pelham Bay bridges; additional catenary renewal and power supply upgrading between Washington, District of Columbia, and New York, New York; rehabilitation of structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania; and installation of evacuation and fire protection facilities in tunnels at New York, New York;”

(3) Section 704(a) is amended by adding at the end thereof the following new sentences: “Funds are authorized to be appropriated under this section in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983, to the extent that the amount appropriated under the authority of this section for any previous fiscal year is less than the limitation under such sentence with respect to such previous fiscal year. The Secretary shall expend or reserve for expenditure funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, first (A) if the National Railroad Passenger Corporation receives the notification referred to in paragraph (1)(B) of this subsection, for the purposes under such paragraph; and (B) in the amount of \$62,000,000 for track improvements with respect to the Southwest corridor project in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982. The amount so expended or reserved for expenditure for the purposes of paragraph (1)(B) of this subsection for the fiscal year ending September 30, 1983 shall be \$10,000,000.”

45 USC 854.

(4) Section 704(b) is amended—

(A) by striking “LIMITATION.—” and inserting in lieu thereof “LIMITATIONS.—(1)”; and

(B) by adding at the end thereof the following:

“(2)(A) The projects for which funds are authorized to be appropriated under subsection (a)(1)(C) of this section shall be a part of the Northeast Corridor improvement project, and the goals of this title shall not be considered to be fulfilled until such projects are completed. Such projects shall not be undertaken or viewed as a substitute for any improvements specified in the document entitled Corridor Master Plan II, NECIP Restructured Program, dated January 1982, prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by DeLeuw, Cather/Parsons, NECIP architect/engineer.

“(B) For purposes of implementing the improvements and rehabilitation described in Subsection (a)(1)(B) of this section, the Secretary may defer project identified in the document referred to in subparagraph (A) of this paragraph. The aggregate cost of such projects as the Secretary may so defer shall not be substantially greater than the amount the Secretary is required to expend or reserve for expenditure for purposes of subsection (a)(1)(B) of this section.”

Deferrals.

96 STAT. 2550

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45 USC 855.

(5) Section 705 is amended—

(A) in subsection (a), by striking “the” after “reallocation to” and inserting in lieu thereof “such”; and

(B) in subsection (b), by inserting “National Railroad Passenger” immediately before “Corporation”.

NEW SERVICE

45 USC 854 note.

SEC. 302. (a) If the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New York that such State has approved a plan, developed in consultation with such Corporation, for the acquisition and rehabilitation of a line and construction necessary to facilitate improved rail passenger service between Spuyten Duyvil, New York, and the main line of the Northeast Corridor, and has approved a plan, developed in consultation with such Corporation and appropriate local governmental officials, for the rehabilitation of the Amtrak station at Syracuse, New York, such Corporation shall, by September 30, 1985, expend funds, not in excess of \$30,000,000, authorized to be appropriated under section 601 of the Rail Passenger Service Act (45 U.S.C. 601) for such purposes.

45 USC 854 note.

(b) Notwithstanding the provision of section 403 of the Rail Passenger Service Act (45 U.S.C. 563), the National Railroad Passenger Corporation may operate the service described in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976.

(c) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

“(e) Funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985 shall, if the Corporation receives the notification referred to in section 302(a) of the Rail Safety and Service Improvement Act of 1982, be first expended or reserved for expenditure by the Corporation for the purposes under such section 302(a). The amount expended or reserved for expenditure for such purposes for the final year ending September 30, 1983 shall be \$10,000,000.”.

TITLE IV—RAILROAD FINANCING

EXTENSION

SEC. 401. Sections 505(e), 507(a), 507(d), and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829(a)) are amended by striking “September 30, 1982” wherever it appears and inserting in lieu thereof “September 30, 1985”.

TRANSITION ASSISTANCE

45 USC 825a.

SEC. 402. Notwithstanding any other provision of law, any financially responsible person (including any government authority), except for a class I rail carrier, shall upon application be eligible for financial assistance made available in section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) for the purchase, lease, or rehabilitation of rail lines of the Consolidated Rail Corporation which are to be used for common carrier rail service and with respect to which an application for a certificate of abandonment has been filed with the Interstate Commerce Commis-

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sion under section 308(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(a)), or a notice of insufficient revenues has been filed with the Commission under section 308(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(c)).

AUTHORIZATION FOR RAIL FUND

SEC. 403. (a) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended—

(1) in paragraph (2), by striking “Not less than” and inserting in lieu thereof “Not more than”;

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3);

(4) in paragraph (3), as redesignated by paragraph (3) of this section—

(A) by striking “, (2) and (3)” and inserting in lieu thereof “and (2)”; and

(B) by inserting “, and not more than \$55,000,000 are authorized to be appropriated for fiscal years 1983, 1984 and 1985” immediately before the period; and

(5) by adding at the end thereof the following new paragraphs:

“(4) \$40,000,000 of the funds received by the Secretary of the Treasury from amounts appropriated under subsection (a) of this section shall be reserved and made available for meritorious applications regarding that restructuring of rail freight facilities and systems specified in section 505(b)(2)(ii) of this title.

“(5) \$15,000,000 of the funds appropriated under subsection (a) of this section shall be available for the purchase, or for the refinancing of the purchase, of the red line of the Chicago, Rock Island and Pacific Railroad Company between Fort Worth and Dallas, Texas, or of interests in such rail line, by a State or one or more political subdivisions thereof. To the extent that funds are made available for such purposes through appropriations for any Administration of the Department of Transportation, other than the Federal Railroad Administration, the amount of funds authorized under this section shall be reduced accordingly.”.

(b) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting “(i)” immediately after “priorities”; and

(2) by inserting “(ii)” immediately after “in the private sector and”.

TITLE V—MISCELLANEOUS PROVISIONS

LOCAL RAIL SERVICE

SEC. 501. Section 5(h)(2)(A) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)(A)) is amended to read as follows:

“(A) two thirds of the available funds, multiplied by a fraction the numerator of which is the sum of (i) total rail mileage in the State, other than rail mileage of the Consolidated Rail Corporation, which, in accordance with section 10904(e) of title 49, United States Code, either is ‘potentially subject to abandonment’ or with respect to which a carrier plans to file, or has filed, an application for a certificate under subsection (a) of such section, and (ii) the total rail mileage of the Consolidated Rail Corporation in the State which such Corporation has certified to

96 STAT. 2552

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95 Stat. 679. be in a situation comparable to 'potentially subject to abandonment' within the meaning of such term under such section 10904 or with respect to which the Consolidated Rail Corporation plans to file, or has filed, an application for a certificate under section 308 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748) or under section 10904(a) of title 49, United States Code; and the denominator of which is the total of the rail mileage described in clauses (i) and (ii) in all the States; and".

CONTRACT RATES

SEC. 502. Section 10713(k)(1) of title 49, United States Code, is amended by striking "and paper" and inserting in lieu thereof ", but not including wood pulp, wood chips, pulpwood or paper)".

BURNHAM CANAL

33 USC 59t. SEC. 503. The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

COMMUTER TRANSITION FUNDING

95 Stat. 652.
45 USC 744a
note. SEC. 504. (a) Section 1139(b) of the Northeast Rail Service Act of 1981 is amended—

- (1) by inserting "(1)" immediately after "(b)";
- (2) by striking "in the fiscal year ending September 30, 1982,";
- (3) by striking "contracting with Amtrak Commuter"; and
- (4) by adding at the end thereof the following new paragraph:

"(2) Any funds appropriated under the authority of this subsection shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) of this subsection within 60 days after receipt of an application by Amtrak Commuter or such commuter authorities or within 60 days after the date of enactment of the Rail Safety and Service Improvement Act of 1982, whichever is later."

Ante, p. 2543.

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)) is amended—

- (1) by inserting "(1)" immediately after "APPROPRIATION.—";
- and
- (2) by adding at the end thereof the following new paragraph:

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981."

(c)(1) Section 217(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(a)) is amended by striking "\$262,000,000" and inserting in lieu thereof "\$137,000,000".

95 Stat. 653.

(2) Section 217(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) it amended to read as follows:

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“(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated not to exceed \$262,000,000—

“(A) of which not to exceed \$137,000,000 shall be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act;

45 USC 761.

“(B) of which not to exceed \$75,000,000 shall be appropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981;

95 Stat. 652.
45 USC 744a.
note.

“(C) of which not to exceed \$35,000,000 shall be appropriated to the Secretary to be allocated for employee protection under section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005); and

“(D) of which not to exceed \$15,000,000 shall be appropriated to the Secretary to facilitate the transfer of rail commuter services from railroads that entered reorganization after calendar year 1974 to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.

“(2) All sums received on account of the holding or disposition of any securities or accounts receivable referred to in paragraph (1)(A) of this subsection shall be deposited in the general fund of the Treasury.

“(3) The amount authorized to be appropriated under paragraph (1)(B) of this subsection shall be reduced, in an amount equal to any amounts reappropriated under the authority of section 216(g)(2) of this Act, upon the date of enactment of any Act which reappropriates such amounts.”

45 USC 726.

INTERCITY PASSENGER SERVICE EMPLOYEE PROTECTION

SEC. 505. (a) Section 1165 of the Northeast Rail Service Act of 1981 is amended—

95 Stat. 686.
45 USC 1113.

(1) by inserting “(a)” immediately after “Sec. 1165.”; and

(2) by adding at the end thereof the following new subsection:

“(b) Conrail employees who are deprived of employment by an assumption or discontinuance of intercity passenger service by Amtrak shall be eligible for employee protection benefits under section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797), notwithstanding any other provision of law, agreement, or arrangement, and notwithstanding the inability of such employees otherwise to meet the eligibility requirements of such section. Such protection shall be the exclusive protection applicable to Conrail employees deprived of employment or adversely affected by any such assumption or discontinuance.”

95 Stat. 661.

RAILROAD DEVELOPMENT CRITERIA

SEC. 506. (a) Section 10910(b)(1)(A)(ii) of title 49, United States Code, is amended by striking “has been placed” and inserting in lieu thereof “is”, and by inserting “before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section” immediately after “10903 and 10904 of this title”.

96 STAT. 2554

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Effective date.
49 USC 10910
note.

(b) The amendment made by subsection (a) of this section shall be effective with respect to any application or preliminary filing with respect to which the Commission has made no final decision before May 1, 1982, except that such amendment shall not affect any line which has been removed from the carrier's system diagram map before the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 507. There is authorized to be appropriated to the Secretary of Transportation \$15,600,000 for the fiscal year ending September 30, 1983, for the Office of the Administrator of the Federal Railroad Administration, of which not to exceed \$9,200,000 shall be used for executive direction and administration and not to exceed \$6,400,000 shall be used for policy support.

NORTHEAST CORRIDOR COORDINATION

95 Stat. 650.

SEC. 508. Section 505 of the Rail Passenger Service Act (45 U.S.C. 585) is amended—

(1) by striking "Board of Directors of Amtrak Commuter" both places it appears and inserting in lieu thereof "Northeast Corridor Coordination Board"; and

(2) by adding at the end thereof the following new subsection:

95 Stat. 645.

"(c) The Northeast Corridor Coordination Board shall consist of (1) one member from each commuter authority, within the meaning of such term under section 1135(a)(3) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)(3)), which operates or contracts for the operation of rail commuter service over the main line of the Northeast Corridor, (2) two members to be named by Amtrak; and (3) one member to be named by the Consolidated Rail Corporation."

APPLICABILITY OF LAWS

SEC. 509. Title V of the Rail Passenger Service Act (45 U.S.C. 581 et seq.) is amended by adding at the end thereof the following new section:

45 USC 591.

"SEC. 511. APPLICABILITY OF LAWS.

"Any commuter authority operating commuter service under this title shall be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)."

COMMISSION PROCEEDINGS

95 Stat. 685.

SEC. 510. Section 1164(c) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1112(c)) is amended—

(1) in paragraph (1)—

(A) by striking "bankruptcy, substantial sale," and inserting in lieu thereof "bankruptcy or substantial sale"; and

(B) by amending the last sentence to read as follows: "The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary

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deems appropriate and which conform to the terms set forth in this subsection.”;

(2) by amending paragraph (2) to read as follows:

“(2) If the interest of the United States is limited under paragraph (1), any new debt issued by such a railroad subsequent to the issuance of the debt described in paragraph (1) may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such paragraph as the Secretary and the railroad may agree.”; and

(3) by adding at the end thereof the following new paragraph:

“(3) In carrying out the duties under this subsection, the Secretary may (A) enter into such agreements, (B) in accordance with any such agreements, cancel or cause to be conceded or amend or cause to be amended any notes or securities currently held by agencies or instrumentalities of the United States, and (C) accept in exchange as substitution therefor such instruments evidencing the indebtedness owed to such agencies or instrumentalities as, in the Secretary's judgment, will effectuate the purposes of this subsection.”.

FEEDER LINE TRANSFER

SEC. 511. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide Federal financial assistance, in accordance with the provisions of this section, for the acquisition and rehabilitation (including related new construction of sidings and connecting tracks) of the feeder line which the Illinois Central Gulf Railroad has abandoned extending between Milepost 72 near Herscher, Illinois and Milepost 135 near Barnes, Illinois (known as the “Bloomer Line”).

(b) In carrying out this section, the Secretary shall provide assistance to a qualified applicant in an amount not to exceed 90 percent of the acquisition costs and 80 percent of the rehabilitation costs associated with the redevelopment of the feeder line. Any qualified applicant may provide the non-Federal share of the costs of such project.

(c) If an application is filed with the Secretary which is supported by a preponderance of the rail service users on the feeder line or segment of such line for which such an application is filed, the Secretary shall act expeditiously on such application. If the Secretary denies an application filed under this section, the Secretary must provide to the applicant a contemporaneous statement of reasons for the denial, and a list of the specific amendments to the application which, if made, would cause the Secretary to approve such application.

(d) If the entity purchasing the line described in subsection (a) of this section petitions the Interstate Commerce Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practically participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of title 49, United States Code, require the establishment of reasonable joint rates and divisions over such route.

(e) There is authorized to be appropriated \$3,000,000 to carry out this section.

(f) As used in this section, the term “qualified applicant” means—

(1) a State or local governmental entity;

Appropriation
authorization.

“Qualified
applicant.”

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(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad
Transfer Act of
1982.

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201
note.

SEC. 601. This title may be cited as the “Alaska Railroad Transfer Act of 1982”.

FINDINGS

45 USC 1201.

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska presently is providing freight and passenger services that primarily benefit resident and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

45 USC 1202.

DEFINITIONS

SEC. 603. As used in this title the term—

(1) “Alaska Railroad” means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 604(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

Definitions.

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer, and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity, and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

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TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section.

45 USC 1203.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right of way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provision of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

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any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than \$2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code.

"Accrue."

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two year period;

(iv) for priority of reemployment at the State-owned railroad during the two year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) or this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transferred employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 *et seq.*

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to
Congress and
State legislature.
45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of \$300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

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45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by striking the period at the end of paragraph (10) and inserting in lieu thereof “; and”; and
- (3) by adding at the end thereof the following new paragraph:

“(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.”.

LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

Post, p 2568.

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

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regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghothele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to Section (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking “subsection 12(b)(6)” and inserting in lieu thereof “section 12(b) (5) and (6)”;

(B) by striking “12(b)(7)(ii)” and inserting in lieu thereof “12(b)(7)(iv)”;

(C) by striking “crediting” and inserting in lieu thereof “using”;

(D) by striking “this subsection 12(b)(7)(i)(b)” and inserting in lieu thereof “these subsections 12(b)(7) (i)(b) or (ii)”;

(E) by striking “State” in the last sentence and inserting in lieu thereof “state”; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

“(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

“(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

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notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

43 USC 1611
note.

“(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

“(C) as used in this subsection, ‘real property’ means any land or interests in land owned or held by the United States or any Federal agency, any improvement on such land or rights to their use or exploitation, and any personal property related to the land.

“Real
property.”

“(iii) If the Region accepts any conveyance under section 12(b)(7) (i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the ‘Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)’, dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.”

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

43 USC 1611
note.

(A) by striking “surplus” the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: “or paying for the conveyance of property pursuant to subsections (i) or (ii)”;

(C) by inserting immediately after “account shall be” the following: “the sum of (1)”;

(D) by striking “I(C)(2)(e)” and inserting in lieu thereof “I(C)(2)(e)(iii)(A)”;

(E) by striking “the effective date of this subsection”, and inserting in lieu thereof “December 2, 1980”;

(F) by striking “and shall be adjusted” and inserting in lieu thereof “and (2) one-half the acre or acre equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre equivalents under paragraph I(C)(1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii); and

(G) by striking “subsection 12(b)(6)” and inserting in lieu thereof “section 12(b)(5) and (6)”.

43 USC 1611
note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking “subsection (ii)” and inserting in lieu thereof “subsection (iv)”.

43 USC 1611
note.

(5) Section 12(b)(8) of such Act is amended to read as follows:

“12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

“(i) The deadlines in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary’s obligations under section 12(b) (5) and (6) are fulfilled: *Provided, That:*

“(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided, That* the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

“(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(i) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

“(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality, and

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“(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State’s consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Ante, p. 2564.*Ante*, p. 2568.*Ante*, p. 2556.

“(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of The Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

“(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

“(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

“(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

“(A) such studies and inquiries as shall have been initiated by the Secretary and The Administrator of General Services, or have been prepared by other holding

Report to
Congress.

agencies,

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to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

“(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

“(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

“(D) such other remedial legislation or administrative action as may be needed; and

“(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.”.

43 USC 1611
note.

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

Ante, p. 2568.

“12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) or the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however*, That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

48 USC note
prec. 21.
43 USC 1635.

43 USC 1611,
1615, 1621.
43 USC 1611
note.
94 Stat. 2499,
2501-2515,
2518-2544, 2546.

43 USC 1611
note.

“12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking ‘withdrawn’ and inserting in lieu thereof ‘withdrawn or formerly withdrawn’; (2) by striking ‘17(d)(1)’ and inserting in lieu thereof ‘17(d)(1) and (2)’; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: ‘Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.’.

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“12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

43 USC 1635.
48 USC note
prec. 21.

“(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such bonds shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State’s unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

“(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of in entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

“(iii) The Secretary, in the Secretary’s discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).”.

45 USC 1205.

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

EMPLOYEES OF THE ALASKA RAILROAD

45 USC 1206.

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability

5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accrued interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 8336 (a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid into the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisions of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

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(c) Transferred employees whose employment with the State-owned railroad is terminated during the two year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.) the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c)).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

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Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 USC. 975 et seq.) and section 603(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 604 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvement to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

45 USC 1209.

(b) If, after the date of transfer pursuant to section 604 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs.

Publication in
Federal
Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

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subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210.

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante, p. 2564.

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

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transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

45 USC 1212.
5 USC 500 *et seq.*

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

45 US 1213.

CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

16 USC 353a.

- (1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.).

96 STAT. 2578

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48 USC 301a.

(2) The Act of June 24, 1946 to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a)

(4) Section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title) whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)-(8) as paragraph (3)-(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)-(viii) as clauses (iii)-(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)-(ix) as clauses (iii)-(viii) respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)-(J) as subparagraphs (C)-(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation “(b)”.

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking “and the Alaska Railroad”.

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting “or” at the end of paragraph (1)(B);

(B) by striking “; or” at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(a)(1) of the Public Health Service Act (42 U.S.C. 251(a)(1)) is amended by striking “employees of the Alaska Railroad and”.

(5) Section 202(3)(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1(3)(a)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after “National Transportation Safety Board” the following: “the State-owned railroad (as deemed in the Alaska Railroad Transfer, Act of 1982), so long as it is an instrumentality of the State of Alaska,”.

45 USC 1214.

SEPARABILITY

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

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96 STAT. 2579

TITLE VII—RAIL SAFETY

SHORT TITLE

Federal Railroad
Safety
Authorization Act
of 1982

SEC. 701. This title may be referred to as the "Federal Railroad Safety Authorization Act of 1982".

45 USC 421 note.

REGULATORY AUTHORITY

SEC. 702. (a) Section 202(h)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(h)(1)) is amended to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue such initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of any such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall also consider relevant differences between commuter and intercity passenger service. The Secretary shall periodically review any such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in any such rules, regulations, orders, and standards as may be necessary.

"(B) The Secretary shall submit to the Congress a report within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under subparagraph (A) of this paragraph which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration."

Report to
Congress
Supra.

(b) The Secretary of Transportation shall, before March 1, 1983, conduct a study of the training of onboard operating and service railroad personnel in evacuation procedures and the use of emergency equipment. The Secretary shall consider, as part of such study, Federal regulations and procedures applicable to other modes of transportation. The Secretary shall submit the results of such study to the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives.

Study.

(c) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsections:

Submittal to
congressional
committees.

"(i) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue rules, regulations, orders, and standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area.

Rules and
regulations.

"(j) The Secretary shall, within 60 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, report to the Congress on whether to issue rules, regulations, orders,

Report to
Congress.

96 STAT. 2580

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"All areas of
railroad safety."

and standards to require that the leading car of any railroad train in operation after July 1, 1983, be equipped with an acceptable form of mounted oscillating light.

"(k) As used in this section, the term 'all areas of railroad safety' includes the safety of commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 703. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding immediately after subsection (b) the following new subsection:

45 USC 435.

"(c)(1) There are authorized to be appropriated to carry out the provisions of this Act, except section 206(d) of this title and paragraph (3) of this subsection, not to exceed \$29,300,000 for the fiscal year ending September 30, 1983, and not to exceed \$31,400,000 for the fiscal year ending September 30, 1984.

"(2) To carry out the provisions of section 206(d) of this title relating to State safety programs, there are authorized to be appropriated not to exceed \$2,700,000 for the fiscal year ending September 30, 1983, and not to exceed \$2,900,000 for the fiscal year ending September 30, 1984.

"(3) For the purpose of conducting safety research and development activities under this Act, there are authorized to be appropriated not to exceed \$20,000,000 for the fiscal year ending September 30, 1983, and not to exceed \$21,000,000 for the fiscal year ending September 30, 1984, including funds for assisting in the treatment of alcohol and drug abuse problems of railroad employees."

MOVEMENT FOR REPAIR

45 USC 15.

SEC. 704. Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking "where such car can be repaired" and all that follows through "at the sole risk of the carrier," and inserting in lieu thereof the following: "on the line of railroad on which the car was discovered to be defective or insecure where such car can be repaired, or, at the option of a connecting carrier, such car may be hauled to the nearest available point on the line of such connecting carrier where such car can be repaired if such point is no farther than the nearest available point on the line on which the car was discovered defective or insecure, without liability for the penalties imposed by this section or section 6 of this title, if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier doing the moving or hauling,".

ASH PAN ACT

SEC. 705. The Act of May 30, 1908 (45 U.S.C. 17 through 21), commonly referred to as the Ash Pan Act, is repealed.

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96 STAT. 2581

RESPONSIBILITY FOR COMPLIANCE

SEC. 706. Section 209 (a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended to read as follows:

“(a) It shall be unlawful for any railroad to fail to comply with any rule, regulation, order, or standard prescribed by the Secretary under this title.”.

Approved January 14, 1983.

LEGISLATIVE HISTORY—H.R. 3420 (S. 1099):

HOUSE REPORTS: No. 97-89 Pt. I (Comm. on Public Works and Transportation) and No. 97-89 pt. 2 (Comm. on Energy and Commerce).

SENATE REPORT No. 97-74 accompanying S. 1099 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 127 (1981): June 1, considered and passed House.

June 2, S. 1099 considered and passed Senate; proceedings vacated in Senate.

July 17, considered and passed Senate, amended.

Vol. 128 (1982): Dec. 20, House agreed to Senate amendments with amendments.

Dec. 21, Senate concurred in House amendments with amendments; House concurred in Senate amendments.

13. Surface Transportation Assistance Act of 1982 (Highway Improvement Act of 1982)

96 STAT. 2097

PUBLIC LAW 97-424—JAN. 6, 1983

Public Law 97-424
97th Congress

An Act

Jan. 6, 1983
[H.R. 6211]

To authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway surety, for mass transportation in urban and rural areas, and for other purposes.

Surface
Transportation
Assistance Act of
1982.
23 USC 101 note.
Highway
Improvement Act
of 1982.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1982".

TITLE I

SHORT TITLE

23 USC 101 note.

SEC. 101. This title may be cited as the "Highway Improvement Act of 1982".

* * * * *

96 STAT. 2099

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

Ante, p. 1611.

(1) For the Federal aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, \$1,850,000,000 (reduced by the amount authorized by the first sentence of section 4(a)(1) of the Federal Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, \$2,100,000,000 for the fiscal year ending September 30, 1984, \$2,300,000,000 for the fiscal year ending September 30, 1985, and \$2,450,000,000 for the fiscal year ending September 30, 1986. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, \$650,000,000 (reduced by the amount authorized by the second sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, \$650,000,000 for the fiscal year ending September 30, 1984, \$650,000,000 for the fiscal year ending September 30, 1985, and \$650,000,000 for the fiscal year ending September 30, 1986.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, \$800,000,000 (reduced by the amount authorized by section 4(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and \$800,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986.

(3) For Indian reservation roads, out of the Highway Trust Fund, \$75,000,000 for the fiscal year ending September 30, 1983, and \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

St. Thomas, V.I.

(4) For the Virgin Islands, all such sums as may be required for the continued presence and operation of the office of the territorial

PUBLIC LAW 97-424—JAN. 6, 1983

96 STAT. 2099

representative of the Federal Highway Administration in St. Thomas, Virgin Islands.

(5) For parkways and park highways, out of the Highway Trust Fund, \$75,000,000 for the fiscal year ending September 30, 1983 and \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

96 STAT. 2100

(6) For the forest highways, out of the Highway Trust Fund, \$50,000,000 (reduced by the amount authorized by section 4(a)(3) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

Ante, p. 1611.

(7) For public lands highways, out of the Highway Trust Fund, \$50,000,000 (reduced by the amount authorized by section 4(a)(4) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(b) Section 151 of the Federal-Aid Highway Act of 1978 is repealed.

Repeal.

(c) In the case of fiscal years 1983 and 1984, each State shall, with respect to any Federal funds available to such State for expenditure on the Federal-aid primary system in excess of the amount apportioned to such State under section 104(b)(1) of title 23, United States Code, for such expenditure in fiscal year 1982, give priority consideration to those priority primary routes designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives.

92 Stat. 2715.

(d) Of the sums apportioned to each State under subsections (a)(1) and (a)(2) of this section for each fiscal year, beginning with fiscal year 1984, not less than 40 per centum of such program funds shall be expended by such State on projects for resurfacing, restoring, rehabilitating, add reconstructing existing highways unless the State certifies to the Secretary that such percentage of funds is in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification. The requirement of the preceding sentence shall apply only to that portion of a State's apportionment not used for reimbursing such State for bond retirement under section 122 of title 23, United States Code, or for advance construction funding under section 115 of title 23, United States Code.

(e) Section 4(a) of the Federal-Aid Highway Act of 1982 is amended by striking out "a joint resolution making continuing appropriations for such fiscal year," and inserting in lieu thereof "Public Law 97-276,".

Ante, p. 1611.

(f) Except to the extent that the Secretary determines otherwise, not less than 10 per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

* * * * *

FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 126. (a) Section 202 of title 23, United States Code, is amended to read as follows:

“§ 202. Allocations

“(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

“(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails according to the relative needs of the various national forests. Such allocation shall be consistent with the renewable resource and land use planning for the various national forests.

“(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway department of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

“(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs at the various element of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

“(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.”.

(b) Section 204 of title 23, United States Code, is amended to read as follows:

“§ 204. Federal Lands Highways Program

“(a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of this title.

“(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for

96 STAT. 2114

Establishment.

Construction and improvement funds.

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96 STAT. 2114

the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contract and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

Contracts.

Indian labor.

“(c) Before approving as a project on an Indian reservation road any project on a Federal-aid system in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

Projects on Indian reservation roads.

“(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

State and local cooperation.

“(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the “Buy Indian” Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian roads.

96 STAT. 2115
Construction by contract.36 Stat. 861.
25 USC 47.
25 USC 450e.

“(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

“(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

Transfer of funds.

“(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements”.

96 STAT. 2115

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“Park road.”

(c)(1) The twelfth undesignated paragraph of section 101(a) of title 23, United States Code, deeming the term “park roads and trails, is amended to read as follows:

“The term ‘park road’ means a public road that is located within or provides access to an area in the national park system.”.

“Indian reservation roads.”

(2) The tenth undesignated paragraph of section 101(a) of title 23, United States Code, defining the term “Indian reservation roads and bridges” is amended by striking out “The term ‘Indian reservation roads and bridges’ means roads and bridges, including roads and bridges” and inserting in lieu thereof “The term ‘Indian reservation roads’ means public roads, including roads”.

“Federal lands highways.”

(3) Section 101(a) of title 23, United States Code, is amended by adding after the third undesignated paragraph, defining the term “county”, the following:

“The term ‘Federal lands highways’ means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.”.

Repeals.

(d) Sections 206, 207, 208, 209, and 214(c) of title 23, United States Code, are repealed.

(e) The analysis of chapter 2 of title 23, United States Code, is amended—

(1) by striking out

“202. Apportionment for allocation.”

and inserting in lieu thereof

“202 Allocations.”;

(2) by striking out

“204. Forest highways.”

and inserting in lieu thereof

“204. Federal lands highways program.”;
and

96 STAT. 2116

(3) by striking out

“206. Park roads and trails.

“207. Parkways.

“208. Indian reservation roads.

“209. Public lands highways.”

and inserting in lieu thereof

“206. Repealed.

“207. Repealed.

“208. Repealed.

“209. Repealed.”

(f) Sections 201 and 203 of title 23, United States Code, are amended by striking out “park roads and trails” wherever it appears and inserting in lieu thereof “park road”.

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96 STAT. 2116

BICYCLE TRANSPORTATION

SEC. 126. Section 217 of title 23, United States Code, is amended to read as follows:

“§ 217. Bicycle transportation and pedestrian walkway

“(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

“(b)(1) To encourage energy conservation, including the development, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycle, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

“(2) In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

“(3) No bicycle project shall be authorized by this section unless the Secretary shall have determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

“(c) For all purposes of this title, a pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such pedestrian walkway project shall be 100 per centum.

“(d) For all purposes of this title, a bicycle project authorized by subsection (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project shall be 100 per centum.

Federal share on
walkway project.

96 STAT. 2117
Federal share on
bicycle project.

96 STAT. 2117

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“(e) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways in conjunction with such trails, roads, highways, and parkways.

“(f) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle routes.

Motorized vehicle prohibition.

“(g) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

Appropriation authorization. Waiver.

“(h) Not more than \$45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a), (b), (e), and (f) of this section. No State shall obligate more than \$4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year.”.

* * * * *

96 STAT. 2132

EMERGENCY RELIEF

SEC. 153. (a)(1) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof the following: “An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from an external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration.”.

96 STAT. 2133

(2) Subsection (a) of section 125 of title 23, United States Code, is further amended by inserting in the second sentence, as that sentence read prior to the amendment made by paragraph (1) of this subsection, after the word “appropriated” the words “from the Highway Trust Fund”.

23 USC 125 note.

(b) Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund.

(c) Subsection (a) of section 125 of title 23, United States Code, is amended by inserting in the second sentence after the words “after September 30, 1976,” the words “and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,”.

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96 STAT. 2133

(d) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the period at the end of the first sentence, inserting a colon in lieu thereof, and by adding the following: "Provided, That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed \$30,000,000 in any State."

23 USC 125 note.

(e) The amendments made by subsection (d) of this section shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section.

(f) Subsection (f) of section 120 of title 23, United States Code, is amended to read as follows:

Federal share.

"(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 100 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life."

"A comparable facility."

(g) All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.

23 USC 120 note.

(h)(1) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the words "the Federal-aid highway systems, including the Interstate System" and by inserting in lieu thereof the words "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," in the two places the stricken words appear.

(2) Subsection (c) of section 125 of title 23, United States Code, is amended by striking the words "on any of the Federal-aid highway systems" and inserting in lieu thereof the words "routes functionally classified as arterials or major collectors".

* * * * *

Approved January 6, 1983.

96 STAT. 2200

LEGISLATIVE HISTORY—H.R. 6211:

HOUSE REPORTS: No. 97-555 (Comm. on Public Works and Transportation) and No. 97-987 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 6, considered and passed House.

Dec. 10, 13-16, 19-21, considered and passed Senate, amended.

Dec. 21, House agreed to conference report.

Dec. 21, 23, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 1 (1983):

Jan. 6, Presidential statement.

14. Volunteers in the Parks

98 STAT. 2718

PUBLIC LAW 98-540—OCT. 24, 1984

Public Law 98-540 98th Congress

Oct. 24, 1984
[S. 864]

An Act

To amend the Volunteers in the Parks Act of 1969, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18j) as amended is further amended by striking out "\$250,000" and substituting "\$1,000,000". The amendment made by this subsection shall apply with respect to fiscal years beginning after September 30, 1984.

16 USC 18g.

(b) Section 1 of such Act is amended by adding the following at the end thereof: "In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee: *Provided*, That the services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

SEC. 2. Section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

"(e) In accepting such services of individuals as volunteers, the Secretary—

"(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

"(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

5 USC 8101.

"(f) Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter 1 of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

"(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than \$250,000 may be appropriated for any one fiscal year."

43 USC 1457a
note.

SEC. 3. (a) The Congress finds that—

(1) the public lands administered by the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the

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98 STAT. 2719

conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

(3) the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitor and recreational services in our national parks, campgrounds, and wildlife refuges;

(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provision of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands;

(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities; and

(6) management and regulation of natural resources on Federal lands are inherently Government functions and should be performed by Federal employees.

(b)(1)(A) The provisions of Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, United States Fish and Wildlife Service, and the Bureau of Land Management which involve ten full time equivalents (FTE) or less.

(B) For fiscal years 1985 through and including 1988, no contracts, for activities conducted by the National Park Service, United States Fish and Wildlife Service, or the Bureau of Land Management which have been subject to the provisions of Office of Management and Budget Circular A-76 or any similar provision in any other order or directive, shall be entered into by the United States until funds have been specifically provided therefore by an Act of Congress.

(2) Nothing in this section shall prevent the National Park Service, United States Fish and Wildlife Service, and the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.

SEC. 4. (a) Beginning in fiscal year 1985, the National Park Service shall implement a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term "maintenance management system" means a system that contains but is not limited to the following elements:

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems, and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets

16 USC 1a-8.

should be maintained, methods for accomplishing work, required labor, equipment and material resources, and expected worker production for each maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work orders specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) The National Park Service shall transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, at the end of each fiscal year, a copy of a report summarizing the status of implementation of a maintenance management system until such a system has been implemented.

The report shall incorporate the following information:

(1) the number of units in the National Park System that have implemented a maintenance management system during the period;

(2) contract costs versus management efficiencies achieved;

(3) the total amount of dollars spent on contracts for services; and

(4) estimation of the total value of benefits achieved through greater management efficiency.

Approved October 24, 1984.

LEGISLATIVE HISTORY—S 864:

HOUSE REPORT No. 98-960 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-208 (Comm. on Energy and Natural Resources)

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept 15, considered and passed Senate.

Vol. 130 (1984): Aug. 6, considered and passed House amended.

Oct. 3, Senate concurred In House amendment with an amendment.

Oct. 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 43 (1984):

Oct. 24. Presidential statement.